TRANSCRIPT OF RECORD.

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 190.

SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Appellants,

vs.

THE UNITED STATES OF AMERICA,
Appellees.

VOL. III.

(Pages 1025 to 1476, inclusive.)

Appeal from the United States Circuit Court of Appeals for the Ninth Circuit.

Filmer Brothers Co. Print, 424 Sansome St., S. F.

Mr. CALL.—Also pages 196 to 202, inclusive.

(Same objection.)

Mr. CALL.—Also pages 215 to 219, inclusive.

(Same objection.)

Mr. CALL.—Also the heading of the meeting at page 220, and the matter contained on page 222.

(Same objection.)

Mr. CALL.—Also the heading of the meeting commencing at page 230, and omitting from there to page 231, commencing on page 231 with the following language: "The following preamble and resolutions," the balance of page 231, 232, and the first line on 233, and the signature of the secretary on page 234.

(Same objection.)

Mr. CALL.—Also page 245, and the first seven lines on page 246, and that part of 247 commencing with the words, "The following resolution was offered," and ending at the bottom of said page.

(Same objection.)

Mr. CALL.—Also pages 259, 260, 261, 262, 263, 276, and that part of 277 ending with the words "a proper receipt therefor," near the bottom of page 287, pages 288, 289, 290, excepting the letter pasted on that page, the first two lines of 291, 292.

(Same objection.)

Mr. CALL.—Also pages 301 to 304, inclusive.

(Same objection.)

Mr. CALL.—Also pages 309 to 311, inclusive, 312 and 313.

(Same objection.)

Mr. CALL.—The heading at page 457, and then omit down to the seventh line from the bottom on page 458, and including the last six lines on page 458, page 459, the heading of the meeting on page 460, and the first resolution on 462, omitting what occurs between.

(Same objection.)

Mr. CALL.—Also page 474, and ending on page 475.

(Same objection.)

Mr. CALL.—The heading on page 476, and that part of page 479, commencing with the words "the following resolution was offered," and ending with "J. L. Willcutt, secretary."

(Same objection.)

Mr. CALL.—The heading on page 480, and that part of 481 commencing with the words, "the following resolution was offered by Charles Mayne," and ending with the words "taking a proper voucher therefor," and comprising seventeen lines.

(Same objection.)

Mr. CALL.—Also the heading of the meeting on page 486, omitting until the following words are reached on page 490, "the following resolution was offered by Charles Mayne," and including the balance of 490, excepting the last three lines; also the signature of J. L. Willcutt, secretary, on page 491.

(Same objection.)

Mr. CALL.—Also the heading on page 492 and the last half of page 493, commencing with the words "the following resolution was offered," and ending with the first three lines of page 494.

(Same objection.)

Mr. CALL.—Also the heading of page 495 and the first resolution on page 497, taking half of the page.

(Same objection.)

Mr. CALL.—Also the heading of the meeting on page 500, and the resolution contained on the bottom half of page 501, and ending on page 502.

(Same objection.)

Mr. CALL.—Also the heading on page 503 and the last half of page 504, commencing with the words, "the following resolution was offered," and ending with the first three lines on page 505; also the signature of the secretary on the same page.

(Same objection.)

Mr. CALL.—The heading of 504 and the resolution at bottom of page 515, commencing with the words "on motion of N. T. Smith," and ending on page 516 with the words "on open account"; also the signature of the secretary on page 518.

(Same objection.)

Mr. CALL.—I will ask the special examiner to make copies of this portion of this record which I have offered, and to file it in evidence in the case as "Exhibit before the Special Examiner L"; and would it be satisfactory for him to do so, to be taken with the same effect as the original, subject to the same objections?

Mr. REDDING.—Yes, sir; satisfactory, provided it is understood that my objections run to each excerpt taken throughout the entire series of pages on the ground of incompetency, immateriality and irrelevancy, as heretofore set forth.

Mr. CALL.—Q. Referring to your testimony on direct examination that representations were made by the Southern Pacific Railroad Company to purchasers of bonds, or proposed purchasers of bonds, that the company represented to such purchasers that the mortgage of 1875 to Mills and Tevis, trustees, covered the lands in suit, I ask you to state how such representations were made and by whom.

A. The mortgage, I understand, covers all those lands, and from information which I have been called upon to furnish the New York office from time to time, I assume those representations were made to the purchasers of the bonds.

Q. Did you personally make such representations yourself? A. No, sir.

Q. Were such representations made in your presence by any authorized officer of the company to any proposed purchaser? A. No, sir.

Q. In assuming that the mortgage covered the lands in suit, are you familiar with the terms and conditions of the mortgage?

The WITNESS.—As expressed therein?

Mr. CALL.—Q. Are you aware that the mortgage states in substance that it covers lands granted to the Southern Pacific Railroad Company, are you not?

(Question objected to by Mr. Redding as being misleading and not the best evidence; the mortgage itself sets forth what it pretends to cover in the shape of security.)

Mr. CALL.—I want to get the source of information of the witness. A. Yes, sir.

Mr. CALL.—Q. And you are then aware that the mortgage does not describe any particular tracts of land in terms?

A. There are no particular tracts described, but reference is made on page 1 of the mortgage to the fact that the Southern Pacific Railroad Company is about to issue its first mortgage bonds for the said railroad and telegraph line, and its rolling stock, fixtures, and franchises, and also upon the lands granted to it by Congress by the act of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," approved July 27, 1866, and the act entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3, 1871, not sold or otherwise disposed of prior to the execution of this mortgage, and upon page 6 the expression that this mortgage covers "all and singular the said several sections of land so as aforesaid granted by said acts of Congress; and also all the estate, right, title, interest, claim, and demand whatsoever, at law or in equity, of, in, or to the same, or any part or parcel thereof, which the said party of the first part now has, holds, owns, or is entitled to, or hereafter may or shall acquire, have, hold, own, or be or become entitled to by force or virtue of the said acts of Congress; saving, excepting, and reserving all parts and parcels of said lands which have been sold or contracted to be sold or disposed of heretofore, or which are or shall be included in the right of way of the said railroads and telegraph

lines of the said company, as defined and granted by the acts of Congress aforesaid, or used for the construction or operation thereof, or for the track, yards, depot grounds, buildings, or erections thereon."

Q. Are you familiar with the terms and conditions of the acts of Congress therein referred to?

(Question objected to by Mr. Redding as immaterial, irrelevant, and incompetent, and calling for the opinion of the witness.)

A. Only in a general way.

Q. When you stated that you assumed that the mortgage covered lands in suit, did you or did you not assume that the lands were covered by the grants or acts of Congress referred to?

A. I assumed that they were; I understood that they were.

Q. Were you aware that the acts of Congress referred to did not grant to the Southern Pacific Railroad Company lands which had been previously granted and also lands which had been reserved for any purpose?

(Same objection.)

A. Yes, sir.

Q. Has there been any consolidation of the Southern Pacific Railroad Company with other railroad companies since that made in 1888? A. No, sir.

Redirect Examination.

Mr. REDDING.—Have you obtained from Mr. Lansing the letter of acknowledgment from the office of commissioner of railroads, showing the receipt by the depart-

ment of the interior of the reports of the Southern Pacific Railroad Company for the years of 1889, 1890, 1891, 1892, and 1893? A. I have.

Mr. REDDING.—Defendants offer in evidence letters from the department of the interior, office of commissioner of railroads, addressed to G. L. Lansing, Esq., secretary and controller Southern Pacific Company, dated respectively October 24, 1889, October 21, 1890, October 21, 1891, September 28, 1892, and September 16, 1893, and ask that they be marked "Defendants' Exhibits before the Special Examiner Nos. 92, 93, 94, 95, and 96."

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, October 24, 1889, signed W. M. Thompson, in charge of office, addressed to G. L. Lansing, Esq., controller Southern Pacific Co., is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 92, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

(Letter from the department of the interior, office of commissioner of railroads, dated October 21, 1890, signed W. M. Thompson, in charge of office, addressed to G. L. Lansing, Esq., secretary and controller Southern Pacific Company, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 93, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, October 21, 1891, signed W. M. Thompson, bookkeeper, addressed

to G. L. Lansing, Esq., secretary and controller Southern Pacific Company, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 94, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, September 28, 1892, signed W. M. Thompson, bookkeeper, addressed to G. L. Lansing, Esq., secretary and controller Southern Pacific Company, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 95, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

(Letter from the department of the interior, office of commissioner of railroads, dated Washington, September 16, 1893, signed F. E. Storm, bookkeeper, addressed G. L. Lansing, Esq., secretary and controller Southern Pacific Company, is marked by the special examiner "Defendants' Exhibit before the Special Examiner No. 96, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

J. L. WILLCUTT.

(An adjournment was then taken, by consent of counsel, until Tuesday, October 3, 1893, at 1 P. M.)

Defendants' Exhibit Before the Special Examiner No. 65.

Department of the Interior.

Washington, D. C., April 3, 1871.

Sir: The map received with your letter of the 22nd ultimo, showing the route of the Southern Pacific Rail-

road "from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river," has been sent to the commissioner of the general landoffice, with directions to withdraw the lands as provided in the 12th section of the act to incorporate said Texas Pacific Railroad, approved March 3, 1871.

Very respectfully,

Your Obt. Servant,

WALTER H. SMITH,

Acting Secretary.

Charles Crocker, Esq., Pres. Southern Pac. R. R. Co., 54 William St., N. Y.

[Endorsed]: Walter H. Smith, Acting Secretary.

Washington, April 3, 1871.

Map sent to commissioner with directions to withdraw certain lands.

(Marked "Defendants' Exhibit before the Special Examiner No. 65, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,

Special Examiner.

[Endorsed]: Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 66.

Pac. R. R.

Department of the Interior.

Washington, D. C., August 5, 1868.

Sir: I invite your attention to an act entitled "An act relative to filing reports of railroad companies," approved June 25, 1868.

It will be perceived that the reports required by the act of July 1, 1862, and the acts amendatory thereof, to be made to the secretary of the treasury, are hereafter to be made to the secretary of the interior, "on or before the first day of October of each year."

Very respectfully,

Your Obt. Servant,

O. H. BROWNING,

Secretary.

President of the Southern Pacific R. R. Co., San Francisco, Cal.

(Enclosure.)

(Public—No. 51.)

An act relative to filing reports of railroad companies:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the reports required to be made to the secretary of the treasury on or before the first day of July of each year, by the corporations created by or entitled to subsidies under the provisions of an act entitled "An act to aid in the construction of a railroad and telegraph line

from the Missouri river to the Pacific Ocean, and to secure to the Government the use of the same for postal, military and other purposes," approved July first, eighteen hundred and sixty-two, and the acts supplemental to and amendatory thereof, shall hereafter be made to the secretary of the interior, on or before the first day of October of each year. Said reports shall furnish full and specific information upon the several points mentioned in the twentieth section of the said act of eighteen hundred and sixty-two, and shall be verified as therein prescribed, and on failure to make the same as herein required, the issue of bonds or patents to the company in default shall be suspended until the requirements of this act shall be complied with by such company. And the reports hitherto made to the secretary of the treasury under the said act of July first eighteen hundred and sixty-two, shall be transferred and delivered by him to the secretary of the interior to be filed by him.

Sec. 2. And be it further enacted, that the corporations created by the provisions of the acts of Congress approved July second, eighteen hundred and sixty-four, and July twenty-seventh, eighteen hundred and sixty-six, and known as the Northern Pacific Railroad Company, the Atlantic and Pacific Railroad Company, and the Southern Pacific Railroad Company, shall make reports to the secretary of the interior on or before the first of October of each year, as are required to be made by the Union Pacific Railroad and branches, under the provisions of the first section of this act, and on failure to do so, shall be subject to the like suspension.

Sec. 3. And be it further enacted, that the reports required from the commissioners appointed to examine and report in relation to the road of any of the corporations, whereto reference is made in this act, shall be addressed to and filed in the department of the interior; and all such reports heretofore made shall be transferred to and filed in said department of the interior; and so much of any and all acts as requires any reports from such companies, or any officers thereof, to be made to the secretary of the treasury, is hereby repealed.

Sec. 4. And be it further enacted, that, in addition to the eight subjects referred to, in section twenty of the act of July, eighteen hundred and sixty-two, to be reported upon, there shall also be furnished annually to the secretary of the interior all reports of engineers, superintendents, or other officers who make annual reports to any of said railroad companies.

Approved June 25, 1868. U. S. Statutes, chapter LXXVII; page 79, chapter CXX, page 498, sec. 20.

(Marked "Defendants' Exhibit before the Special Examiner No. 66, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 66. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 67.

Pac. R. R.

Department of the Interior.

Washington, D. C., September 26, 1868.

Sir: Please furnish the secretary of the interior before the 15th proximo a report of the progress and condition of your road, to be used in the preparation of his annual report to the President.

Very respectfully,

Your Obt. Servant,

W. T. OTTO,

Acting Secretary.

T. G. Phelps, Esq., Pres. Southern Pac. R. R. Co., San Mateo, California.

(Marked "Defendants' Exhibit before the Special Examiner No. 67, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,

Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 67. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 68.

Pac. Lgt. R. R.

Department of the Interior.

Washington, D. C., August 31, 1870.

Sir: The act approved June 25, 1868, requires the annual report of your company to be filed in this department on or before the first day of October of each year.

It is desired to have the reports of the different companies brought up to the same date, the 30th June, the end of the fiscal year.

You are requested to have the report of your company for the past year brought up to that date, and filed on or before the 1st October next.

Very respectfully,

Your Obt. Servant,

J. D. COX,

Secretary.

Lloyd Tevis, Esq., Pres. Southern Pac. R. R. Co., San Francisco, Cal.

(Marked "Defendants' Exhibit before the Special Examiner No. 68. Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,

Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 68. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 69.

Z. B. S.

Department of the Interior.

Office of the Secretary.

Washington, D. C., 1st Sept., 1876.

Sir: I inclose herewith a printed circular, issued by this department 26 Oct., 1872, concerning the annual reports of railroad companies, which the law requires to be filed in this department.

I desire that in making up the annual report of your company you will see that it conforms in every respect to the requirements of this circular, and that it be furnished to the department on or before the 1st proximo.

Very respectfully,

Z. CHANDLER,

Secretary.

Chas. Crocker, Esq., Pres. Southern Pac. R. R. Co., 9 Nassau St., New York.

[Endorsed]: Hon. Z. Chandler, Secy. of the Interior, to Chas. Crocker, Prest. S. P. R. R. Co. Annual report of Co. to Secy. of Int.

(Enclosure.)

Department of the Interior.

Washington, D. C., October 26, 1872.

Gentlemen: The following-named railroad companies are required by the 20th section of the act of 1st July, 1862 (12 Statutes, 498), to make annual reports to the secretary of the interior under certain specified heads: The Union Pacific, Central Pacific, Western Pacific (now

consolidated with Central Pacific), Central Branch Union Pacific, Denver Pacific, Sioux City and Pacific, and Kansas Pacific, and the act of 25th June, 1868 (15 Statutes, 79), requires such reports from the Northern Pacific, Southern Pacific, and the Atlantic and Pacific Railroad Companies.

These reports are required by said 20th section to show:

"First. The names of the stockholders and their places of residence, so far as the same can be ascertained;

"Second. The names and residences of the directors, and all other officers of the company;

"Third. The amount of stock subscribed, and the amount thereof actually paid in;

"Fourth. A description of the lines of road surveyed, of the lines thereof fixed upon for the construction of the road, and the cost of such surveys;

"Fifth. The amount received from passengers on the road;

"Sixth. The amount received for freight thereon;

"Seventh. A statement of the expense of said road and its fixtures; total and annual;

"Eighth. A statement of the indebtedness of said company, setting forth the various kinds thereof."

Which report will be sworn to by the president of said company.

There is also required from the Atlantic and Pacific Company, by the 13th section of the act of 27th July, 1866 (14 Statutes, 297), "An annual report of their proceedings and expenditures, verified by the affidavits of the presi-

dent and at least six of the directors, a copy of which shall be deposited in the office of (the) secretary of the interior." The fourth section of the act of 25th June, 1868 (15 Statutes, 79), also requires "That in addition to the eight subjects referred to in section twenty of the act of July, eighteen hundred and sixty-two, to be reported upon, there shall also be furnished annually to the secretary of the interior *all reports of engineers, superintendents or other officers who make annual reports to any of said railroad companies.*"

The first section of the said act of 25th June, 1868, requires the reports of the above-mentioned companies "to be made to the secretary of the interior on or before the first day of October of each year," and that they "shall furnish full and specific information upon the several points mentioned in the twentieth section of the said act of 1862, and shall be verified as therein prescribed, and on failure to make the same as herein required, the issue of bonds or patents to the company in default shall be suspended until the requirement of this act shall be complied with by such company." The thirteenth section of the act of 3d March, 1871 (16 Statutes, 577), requires a sworn report to be made by the Texas and Pacific R. R. Co. to the secretary of the interior "by the first day of July" of each year. Said section requires this report to exhibit "the financial situation of the company, the amount of money received and expended, and the number of miles of road constructed each year; and, further, the names and residences of the stockholders, of the directors, and of all other officers of the company; the amount

of stock subscribed, and the amount thereof actually paid in, a description of the lines of road surveyed and fixed upon for construction, the amount received from passengers and for freight, respectively, on the road, a statement of the expenses of said road and its fixtures, and a true statement of the indebtedness of said company, and the various kinds thereof."

The number of shares of stock held by each director should be given.

R. B. COWEN,
Acting Secretary.

To Presidents of Railroad Companies:

If no such reports are made to the company, it should be so stated in your report.

[Endorsed]: Requirements by department of the interior. Sept. 1, 1876.

(Marked "Defendants' Exhibit before the Special Examiner No. 69, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 69. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 70.

Requirements from Department of the Interior.

Office of Auditor of Railroad Accounts,
Washington, D. C., July 13, 1878.

Sir: I have the honor to transmit herewith a copy of the act of Congress entitled, "An act to create an auditor of railroad accounts and for other purposes," approved June 19, 1878, and to call your attention to the requirements of the same.

Under the provisions of this act, I hereby respectfully request that you direct the secretary of your company to furnish this office, by return mail, with the names and residences of all the officers and directors of the company, as of date July 1, 1878, and with the business address of the company.

I have further to request that you direct all the officers of your company, in compliance with the requirements of law, to render to this office all information and reports that I may require from time to time, to submit the books and records of the company to my inspection, or that of any person acting in my place or stead, and to furnish transportation over your road for myself or any person acting under my direction, without expense to the United States.

I will thank you also for copies of the full series of your printed reports to stockholders, including that for last year.

I have the honor further to request that this office be furnished, by return mail, or as soon thereafter as possible, with copies of all schedules of "through" and "way"

passenger and freight tariffs, or rates in force on the 1st instant, and of such others as have been in force during the year ending June 30, 1878; also of all joint schedules of passenger and freight tariffs agreed upon between your company and other railroad companies, and in force during the same periods; and of all contracts for special rates that have been made by your company with any person, firm, or corporation during the same preiod.

Very respectfully,

THEOS. FRENCH,

Auditor.

Charles Crocker, Esq.,

President Southern Pacific Railroad Company, San Francisco, Cal.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., July 22d, 1878.

Sir: Thirty blanks of form No. 1 issued by this office have been forwarded to you by this mail.

I will thank you to have the same filled up to show the condition of the general ledger of your company at the periods following, viz.:

First. On June 30, 1877, after the transfer of balance to "income account" or "profit and loss" account.

Second. On December 31, 1877, before transfer of balances to "income account," if such transfers are made semiannually.

Third. On June 30, 1878, before transfer of balances to "income account."

Fourth. On July 1, 1878, after the transfers, but before any new entries have been made.

Fifth. On July 31, August 31, etc. 1878, monthly hereafter.

The columns without headings are not to be written upon, as they are intended for use in this office.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
Prest. Southern Pac. R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., July 26, 1878.

Sir: I have the honor to request that this office be furnished, as early as possible, with copies of all contracts or agreements made by your company with any telegraph company, sleeping-car company, express company, or fast freight line or transportation company, and which are still in force.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., July 29, 1878.

Sir: I have the honor to request that this office be fur-

nished, by return mail, with a copy of your by-laws as now in force, and a list of committees as at present composed.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., August 1, 1878.

Sir: I have the honor to refer you to my letters dated, respectively, July 13, 22, 24, 26, and 29, 1878, to none of which have I received a reply to this date, and to enclose again copy of the act of Congress, No. 121, approved June 19, 1878.

By this mail, fifty blanks of form No. 2 of this office have been forwarded to you, upon which I will thank you to direct the auditor or other proper officer of your company to make reports for six months, respectively ending June 30, 1877, December 31, 1877, and June 30, 1878, by divisions as separated in your accounts, and by the same divisions monthly hereafter commencing with July 31, 1878.

In this connection, I have further to state that, as one month has already elapsed without compliance on the part of your company with the requirements of this office made in pursuance of and under the law, I hereby respectfully give notice that, unless compliance with each and every requirement heretofore and hereby again requested

is made within 30 (thirty) days from this date, proceedings will be commenced to collect the penalties under section 5 of the act approved June 19, 1878.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., August 27, 1878.

Sir: By this mail 50 blanks of form No. 4 have been forwarded to you, upon which I will thank you to direct the auditor or other proper officer of your company to make reports for the periods of six months respectively ending June 30, 1877, December 31, 1877, and June 30, 1878, by divisions as separated in your accounts, and by the same divisions monthly thereafter, commencing with July 31, 1878.

This information is desired specifically as requested, if the method of keeping your accounts will so permit; if not, as near thereto as possible.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pac. R. R. Co., San Francisco, Cal.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., Sept. 3, 1878.

Sir: I have the honor to inform you that to-day I have mailed to your address 5 blanks, sheet 1; 5 blanks, sheet 2; and 20 blanks, sheet 3—all of form No. 3, issued by this office, and to request that report for June 30, 1878, be made upon these forms to this office at as early a day as possible; and hereafter, on the 30th of September, 31st of December, etc., quarterly, excepting that required on sheet No. 3, which need only be made at such times as the transfer books of the company are closed prior to an election by or vote of stockholders, or prior to the payment of a dividend.

Very respectfully,

THEOS. FRENCH,

Auditor.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, Cal.

P. S. If, at the end of a quarter, no change has occurred on sheets 1 and 2 since the previous report, notification of that fact will be sufficient.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., Sept. 9, 1878.

Sir: Referring to my letter of the 27th ultimo, at which time blanks of form No. 4 were forwarded, I will thank you to have the reports made on one-half of the sheets

to show northward traffic and on the other half to show southward traffic, if it is possible to so do.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., Sept. 20, 1878.

Sir: Forty blanks of each sheet Nos. 1, 2, 3, and 4 of form No. 5 of this office have been forwarded to you by this mail.

I have to request that report be made upon them for the periods following, viz.:

1. Six months ending June 30, 1877;

2. Six months ending December 31, 1877;

3. Six months ending June 30, 1878—and a monthly report thereafter, commencing with that for July 31, 1878.

As in form No. 2 of this office, it is requested that these reports be made by divisions as separated in your accounts, and, in addition thereto, for each branch and leased road separately.

If the method of keeping your accounts will permit this information to be furnished specifically as requested,

it is so desired, but, if not, then as near thereto as possible.

Very respectfully,

THEOS. FRENCH,
Auditor.

S. G.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., Sept. 27, 1878.

Sir: Ten blanks of form No. 6, issued by this office, are herewith enclosed.

I have to request that reports on these blanks be forwarded to this office for the period following, viz.:

1. For the six months ending June 30, 1877;
2. For the six months ending December 31, 1877;
3. For the six months ending June 30, 1878—and monthly thereafter, on July 31, August 31, and so forth.

Very respectfully,

THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., October 1, 1878.

Sir: Six blanks of form No. 7, issued by this office, are herewith enclosed.

I have to request that reports be made upon this form for the periods following, viz.:

1. For the six months ending June 30, 1877;

2. For the six months ending December 31, 1877;

3. For the six months ending June 30, 1878—and semiannually thereafter, commencing with that for December 31, 1878.

In addition, I will thank you to report by items upon this form the total cost of construction and equipment for your road to the 30th of June, 1878, as it appears on the books of the company.

Very respectfully,
THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

P. S. If possible, please give also the cost of construction of land-grant portion of road.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., October 4, 1878.

Sir: Five blanks each of sheets 1, 2, 3, and 4 of form No. 8, issued by this office, have been forwarded to you by this mail.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,

THEOS. FRENCH,

Auditor.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, California.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., October 7, 1878.

Sir: Five blanks form No. 9, issued by this office, are herewith enclosed.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter, commencing with that for December 31, 1878.

Very respectfully,

THEOS. FRENCH,

Auditor.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, California.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., October 10, 1878.

Sir: Five blanks of form No. 10, issued by this office, have been forwarded to you by this mail.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,
THEOS. FRENCH,
Auditor.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, California.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., October 12, 1878.

Sir: Five blanks of form No. 11, issued by this office, have been forwarded to you by this mail.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,

THEOS. FRENCH,

Auditor.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., October 15, 1878.

Sir: Five blanks of form No. 12, issued by this office, have been forwarded to you by this mail.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,

THEOS. FRENCH,

Auditor.

S. G.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., October 16, 1878.

Sir: Five blanks of form No. 13, issued by this office, are herewith enclosed.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,
THEOPHILUS FRENCH,
Auditor.
S. G.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., October 17, 1878.

Sir: Please find herewith enclosed five blanks of form No. 16, issued by this office.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months thereafter.

Very respectfully,

THEOPHILUS FRENCH,

Auditor,

S. G.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., October 19, 1878.

Sir: Five blanks each of sheets 1, 2, and 3, all of form No. 17, issued by this office, have been forwarded to your address by this mail.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,

THEOPHILUS FRENCH,

Auditor,

S. G.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, California.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., October 22, 1878.

Sir: Five blanks of form No. 18, issued by this office, are herewith enclosed.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending June 30, 1877;

Six months ending December 31, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,

THEOPHILUS FRENCH,

Auditor,

S. G.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., October 24, 1878.

Sir: Five blanks of form No. 19, issued by this office, are herewith enclosed.

I have to request that reports be made upon these blanks for the following periods, viz.:

Six months ending December 31, 1877;

Six months ending June 30, 1877;

Six months ending June 30, 1878—and by periods of six months hereafter.

Very respectfully,

THEOS. FRENCH,

Auditor.

Charles Crocker, Esq.,

President Southern Pacific R. R. Co., San Francisco, Cal.

P. S. If the method of keeping your accounts will permit this information to be furnished specifically as requested, it is so desired; if not, then as near thereto as possible.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., April 17, 1879.

Sir: Herewith please find enclosed 25 blanks and 12 return envelopes, for monthly report of the earnings and expenses of your road from January, 1879, inclusive.

A change in the form of report for the year commencing July 1, 1879, is now being considered, with a view to make it less troublesome, to simplify it, and, if possible, to reduce it to the minimum of information required.

The design in asking for these statements of earnings and expenses is that the information furnished may be consolidated into a monthly official statement to be issued by this office.

For this reason, it is desirable that the blanks should be filled and forwarded to this office as soon as possible after the close of each month.

Very respectfully,

THEOS. FRENCH,
Auditor,
S. G.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., May 17, 1879.

Sir: Under the act of Congress approved June 19, 1878, requests have been made, from time to time, for reports to be rendered by your company to this office as follows, viz.:

July 13, 1878. Compliance with auditor's act.

July 13, 1878. Address of officers and directors.

July 13, 1878. Business address of company.

July 13, 1878. Information, inspection of books and right of way.

July 13, 1878. Copies of printed reports.

July 13, 1878. Freights, etc., schedules, copies of.

July 13, 1878. Copies of joint tariffs.

July 13, 1878. Special contracts.

July 29, 1878. By-laws and list of committees.

July 24, 1878. Land agent's report.

July 26, 1878. Contracts with telegraph and other companies.

July 22, 1878. Form 1, financial condition.

August 1, 1878. Form 2, revenue.

Sept. 3, 1878. Form 3, ownership and control.

August 27, 1878. Form 4, statistical—traffic.

Sept. 20, 1878. Form 5, operating and other expenses.

Sept. 27, 1878. Form 6, income expenses.

October 1, 1878. Form 7, cost of construction.

October 4, 1878. Form 8, statistical—employés, supplies, repairs, taxes, etc.

October 7, 1878. Form 9, statistical—accidents.

October 10, 1878. Form 10, statistical—funded debt.

October 12, 1878. Form 11, statistical—capital stock.

October 15, 1878. Form 12, statistical—roadway.

October 16, 1878. Form 13, statistical—locomotives.

1879, Feb.—Sept. 25, 1878. Form 14, land department—statistical. Sept. 25, 1878. Form 15, land department-financial.

Oct. 17, 1878. Form 16, statistical—bridges.

Oct. 19, 1878. Form 17, statistical—passenger, freight, and miscellaneous cars.

Oct. 22, 1878. Form 18, statistical—stocks and bonds.

Oct. 24, 1878. Form 19, freight carried.

April 17, 1879. Form 20, earnings and expenses—monthly.

If any compliance has been made with these requests, it has been only partial.

The Supreme Court of the United States having decided that the so-called "Thurman Act" of May 7, 1878, is constitutional, there can be little question but that in the main, the act of June 19, 1878, creating an auditor of

railroad accounts, and for other purposes, is also constitutional.

So far as this office is concerned, it is not desirable to have to enforce the penalties provided in case of neglect or refusal on the part of any company to make such reports as may be called for, and it is hoped that your company will comply with the requirements of the law in all respects, upon demand hereby now and again made, without necessitating an appeal to the courts.

Very respectfully,

THEOPHILUS FRENCH,
Auditor,
S. G.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., September 1, 1879.

Sir: Herewith I hand you two copies of blank form adopted by this office for half-yearly reports.

This form takes the place of all forms hitherto issued from this office with the exceptions of form No. 1 and form for "statement of earnings and expenses" (sample copies enclosed), upon which reports will be required monthly as heretofore. To save the labor of copying by hand, and to insure accuracy in the copies to be retained, the new are printed in copying ink.

If the information cannot be given in full or the exact form prescribed, without considerable special expense, it should be given as complete and as nearly in accordance with the form as may be.

Hereafter your accounts should be so kept that you may be able to comply fully with the requirements.

The amount received as car service should be reported in full in earnings. The amount paid as "car service" should be reported in full in expenses.

I have to request that reports be made to this office by your road, as follows:

First. Half-yearly reports on new form for each of the periods of six months ending December 31, 1878, and June 30, 1879, showing operations, etc., etc., of the land-grant portion of your road.

Second. Half-yearly reports, in any convenient form, for each of the aforementioned periods of six months, showing operations, etc., of such portions of your road as have not received, and are not entitled to receive, any lands of the United States by direct grant from Congress, or indirectly through any State; giving in each case the basis upon which business is prorated therewith.

Third. Abstracts of debit and credit footings, on form No. 1 of your general ledger at close of business before transfer of balances January 31, 1879, and for the last day of each subsequent month.

Fourth. Statement of earnings and expenses for the months, January, 1879-78, and monthly thereafter.

I will thank you to cause the above-described reports to be made at an early day.

Very respectfully,

THEOS. FRENCH,
Auditor,
S. G.

Charles Crocker, Esq.,
President Southern Pacific R. R. Co., San Francisco, Cal.

[Stamped]
Rec'd at Secty's Office,
Mar. 8, '80.
E 174.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., February 28, 1880.

Sir: By this mail a blank form for semiannual report has been forwarded to your address, and I have to request that report be made upon the same for the six months ending December 31, 1879.

Your attention is respectfully called to the following points, viz.:

Pages 4 and 5.—"Additions and Betterments, etc." This is merely for six months, with the understanding that the total cost has been given in former reports.

Page 6.—Give such information as may be possible from your accounts as kept.

Pages 7 and 7A.—The order of detail is so arranged as to enable the classification "conducting transportation."

"Motive power," etc., to be obtained by footing the consecutive items.

Pages 11, 12, 13, and 13A.—The information required by these blanks must of course be governed by your own record of statistics.

Pages 18 and 18A.—These pages it will be noted refer to rolling stock owned, and rolling stock not owned, by which latter is meant such as has been rented, leased, or purchased on installments.

Pages 1 to 20A.—These pages, you will notice, refer to accidents, their classification, casualties, and expenses. It is especially requested that this information be given as fully as possible.

While it is not desirable to put you to any extraordinary or unnecessary expense in this matter of making up reports, it is desirable to have the reports as complete as may be, and that they be rendered at as early a day as practicable.

Very respectfully,

THEOS. FRENCH,
Auditor.

J. L. Willcutt, Esq.,
Secy. Southern Pac. R. R. Co., San Francisco, Cal.

[Stamped]
Secretary's Office,
Mar. 25, 1880, E 275.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., March 18, 1880.

Dear Sir: In reply to your letter of the ninth instant, I enclose, as requested, one additional blank of form 2, issued by this office.

Very respectfully,
THEOPH'S FRENCH,
Auditor,
N. D.

J. L. Willcutt, Esq.,
Sec'y Southern Pacific R. R. Co., P. O. B. 2008, San Francisco, Cal.

[Marked]

Rec'd at Secry's Office,

Mar. 27, '80.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., March 22, 1880.

Dear Sir: I acknowledge receipt, with your letter of the 13th inst., of report on form 1 of this office, and of statement of earnings and expenses for the month of January last, and forward herewith, as requested, 12 blanks of form 1.

Very respectfully,

THEOS. FRENCH,

Auditor.

Geo. T. Folsom, Esq.,

Gen'l Accountant, Southern Pacific R. R. Co., San Francisco, Cal.

[Stamped]
Secretary's Office,
May 17, 1880,
E 210.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., May 6, 1880.

Dear Sir: I have the honor to request that this office be furnished with a copy of your last annual printed report to stockholders.

Very respectfully,
THEOS. FRENCH,
Auditor.

J. L. Willcutt, Esq.,
Secy. Southern Pacific R. R. Co. of Cal., San Francisco, Cal.

[Stamped]

Secretary's Office,
Jul. 12, 1880.
E 235.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., July 2, 1880.

Dear Sir: I am in possession of the report of your company on form 2 8-002 of this office for the period ended December 31, 1879, and will be greatly obliged if you will forward this report for the half year ending June 30, 1880, so that it may be received on or before September 15th next.

Very respectfully,

THEOS. FRENCH.
Auditor.

J. L. Willcutt, Esq..
Secretary Southern Pacific R. R. Co., San Francisco, Cal.

[Stamped]
Rec'd at Sec'r't'y's Office,
Jul. 30, '80.
E 239.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., July 22, 1880.

Dear Sir: In reply to your letter of the 14th instant, I desire to say that the report for the half year ending June 30, 1880, on form 2 of this office, corresponds to the report—already received—for period ending December 31, 1879, on form 8-002; the same blank being classified in the department list as form 8-002 and in this office as form 2.

The desired two blanks are herewith enclosed.

Very respectfully,

THEOS. FRENCH,
Auditor.

N. P.

J. L. Willcutt, Esq.,
Secretary Southern Pacific R. R. Co., P. O. Box 2008,
San Francisco, Cal.

[Stamped]
Secretary's Office,
Sept. 15, 1880.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., September 7, 1880.

Dear Sir: Please furnish this office with certain information as indicated by the several headings following, to wit:

1. Amount of granted lands sold up to June 30, 1880, and the consideration therefor.

2. How lands, and the proceeds of sales thereof, are disposed of.

3. Amount and estimated value of lands granted remaining unsold, but earned or capable of being earned under the grant.

4. Number of miles constructed and equipped and the actual cost thereof, in detail, at time of completion.

5. Estimated number of miles to be constructed, and cost of same.

Information in reference to the aforegoing has been called for by the House Pacific R. R. committee, and it is important to have the same at an early day.

Very respectfully,

THEOS. FRENCH,
Auditor.

F.

J. L. Willcutt, Esq.,
Sec. Southern Pacific R. R. Co., San Francisco, Cal.

Department of the Interior,

Office of Auditor of Railroad Accounts,

Washington, D. C., September 18, 1880.

Dear Sir: I beg to acknowledge the receipt of your letter of the 10th instant, with accompanying statements for month of July, 1880, on forms 1 and 3 of this office, and as requested enclose herewith twelve (12) blanks form No. 3.

Very respectfully,

THEOS. FRENCH,

Auditor.

E. W. R.

Geo. T. Folsom, Esq.,

Genl. Acct. Southern Pacific R. R. Co., P. O. Box 2008,

San Francisco, Cal.

[Stamped]
Rec'd at Sec't'y Office,
Mar. 11, '81.
E 231.

Department of the Interior,
Office of Auditor of Railroad Accounts,
Washington, D. C., March 1, 1881.

Sir: By this mail two (2) blanks form No. 8-002 of this office have been forwarded to your address, and I have to request reports thereon for periods of six months ending December 31, 1880, and June 30, 1881.

Very respectfully,
THEOS. FRENCH,
Auditor.

Geo. T. Folsom, Esq.,
Gen'l Accountant Southern Pacific Railroad Co. of Cal.,
San Francisco, Cal.

[Stamped]
Rec'd at Secy's Office,
Mar. 28, '81.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., March 19, 1881.

Dear Sir: In compliance with your request of the 11th instant, I send you by to-day's mail two (2) additional blanks form No. 8-002.

Very respectfully,
THEOS. FRENCH,
Commissioner.

Geo. T. Folsom, Esq.,
General Accountant Southern Pacific R. R. Co., San Francisco, Cal.

[Stamped]
Secretary's Office,
May 2, 1881.

Department of the Interior,
Railroad Office,
Washington, D. C., April 19th, 1881.

Dear Sir: Your abstract of debit and credit footings for February with statement of earnings and expenses for same month received.

Replying to request contained in your form accompanying same, I enclose you a supply of these blank forms.

Very truly yours,

THEOS. FRENCH,
Commissioner.

J. L. Willcutt, Esq.,
Secy. Southern Pacific R. R., San Francisco, Cal.

[Stamped]
Secretary's Office,
May 19, 1881.

Department of the Interior,
Railroad Office,
Washington, D. C., May 12, 1881.

Dear Sir: I have the honor to acknowledge the receipt of your letter of May 4, with inclosure for Southern Pacific Railroad.

Very respectfully,
THEOS. FRENCH,
Commissioner.
F. B. P.

J. L. Willcutt, Esq.,
Secy. Southern Pacific R. R. Co., San Francisco, Cal.
[In lead pencil.]
Ab. of Dr. and Cr. footings.
Statement E. & E.

[Stamped]

Secretary's Office,

May 19, 1881.

Department of the Interior,

Railroad Office,

Washington, D. C., May 12, 1881.

Dear Sir: I have the honor to acknowledge hereby the receipt of your communication of April 28, as also inclosure.

Very respectfully,

THEOS. FRENCH,

Commissioner.

F. B. P.

J. L. Willcutt, Esq.,

Secretary Southern Pac. R. R. Co., San Francisco, Cal.

[In lead pencil.]

Report for Hf. year ending Dec. 31, '80.

(The batch of thirty-six letters embraced in the foregoing forty-one pages, dated respectively July 13, 1878, July 22, 1878, July 26, 1878, July 29, 1878, August 1, 1878, August 27, 1878, September 3, 1878, September 9, 1878, September 20, 1878, September 27, 1878, October 1, 1878, October 4, 1878, October 7, 1878, October 10, 1878, October 12, 1878, October 15, 1878, October 16, 1878, October 17, 1878, October 19, 1878, October 22, 1878, October 24, 1878, April 17, 1879, May 17, 1879, September 1, 1879, February 28, 1880, March 18, 1880, March 22, 1880, May 6, 1880, July 2, 1880, July 22, 1880, September 7, 1880, September

18, 1880, March 1, 1881, March 19, 1881, April 19, 1881, May 12, 1881, May 12, 1881, are marked by the special examiner, "Defendants' Exhibit before the Special Examiner No. 70, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the thirty-six letters embraced in the foregoing forty-one pages, and marked "Defendants' Exhibit before the Special Examiner No. 70, Stephen Potter, Special Examiner," with the originals, and find them to be full, true, and correct copies thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 70. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 71.

Ld. Gt. R. R.

Department of the Interior,
Washington, D. C., October 2, 1868.

Sir: I have received your letter of the 1st instant, and in reply have to state that the annual report of the Southern Pacific Railroad Company was received here on the 26th ultimo.

Very respectfully,
Your Obt. Servant,
W. T. OTTO,
Acting Secretary.

C. P. Huntington, Esq.,
Attorney S. P. R. R. Co., 54 William St., New York.

(Marked "Defendants' Exhibit before the Special Examiner No. 71, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 71. Filed Dec. 5, 1893, Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 72

W. M. F.

[Stamped]
Secretary's Office,
Nov. 9, 1881.

(8-106)

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., November 2, 1881.

Sir: Your favor of the 19th ultimo, containing stated enclosures of semiannual reports of your road for the six months ending June 30, 1881 (received through Mr. C. P.

Huntington, A. & A. New York), is received, for which please accept thanks.

Very Respectfully,

JOS. K. McCAMMON,
Commissioner.

To J. L. Willcutt, Esq.,
Secretary Southern Pacific R. R. Co., San Francisco, Cal.
(1680-500)
[Endorsed on back.]

Jos. J. McCammon, Commr., Washington, Nov. 2, 1881. Acknowledging receipt of semiannual report.

(Marked "Defendants' Exhibit before the Special Examiner No. 72," Stephen Potter, Special Examiner.)

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 72. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 73.

(8-106)

[Stamped]
Secretary's Office,
Feb. 8, 1882.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., February 1, 1882.

Sir: Your favor of the 24th ultimo, containing stated enclosures of annual report to stockholders for 1880, is received, for which please accept thanks.

Very respectfully,

JOS. K. McCAMMON,
Commissioner.
Per W. M. F.

To J. L. Willcutt, Esq.,
Secretary Southern Pacific R. R. Co., San Francisco, Cal.

(1680-500)

[Endorsed on back]

Jos. K. McCammon, Washington, Feb. 1, '82. Acknowledging rec't of copies of our reports to stockholders.

(Marked "Defendants' Exhibit before the Special Examiner No. 73, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 73. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 74.

[Stamped] (8-106)

Secretary's Office.

Received May 27, 1882.

Answered ————————.

Respectfully referred to

Department of the Interior,

Office of Commissioner of Railroads,

Washington, D. C., May 20, 1882.

Sir: Your favor of the 5th instant containing stated enclosures of report for half year ending December 31, 1881, is received, for which please accept thanks.

Very respectfully,

W. H. ARMSTRONG,

Commissioner.

Per K. S.

To J. L. Willcutt, Esq.,

Sec'y So. Pac. R. R. Co., San Francisco, Cal.

(1680-500)

[Endorsed on back]

W. H. Armstrong, Com'r, Washington, May 20, 1882.

Acknowledging receipt of Report.

(Marked "Defendants' Exhibit before the Special Examiner No. 74, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Sept. 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 74. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 75.

[Stamped] (8-106)
Secretary's Office,
Received Nov. 17, 1882.
Answered ————————.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., November 9, 1882.

Sir: Your favor of the 28th ultimo, containing stated enclosure of report of the Southern Pacific R. R. Co. for the half year ending June 30, 1882, is received, for which please accept thanks.

Very respectfully,

WM. H. ARMSTRONG,
Commissioner.

F. B. P.

To J. L. Willcutt, Esq., Sec'y Southern Pac. R. R. Co., San Francisco, Cal.
(1680-500)

[Endorsed on back]

W. H. Armstrong, Washington, Nov. 9, 1882, Ack'g rec't of report for ½ year endg. June 30, '82.

(Marked "Defendants' Exhibit before the Special Examiner No. 75, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30th, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 75. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 76.

[Stamped] (8-106)
Secretary's Office,
Received Aug. 21, 1883.
Answered ————————.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., Aug. 11, 1883.

Sir: Your favor of the 30th ulto. containing stated enclosure of report for half year ending Dec. 31, 1882, on our form 8-002, is received, for which please accept thanks.

Very respectfully,

W. M. ARMSTRONG,
Commissioner.
T. J. Walker.

To J. L. Wilcutt, Esq., Secretary S. Pac. R. R. Co., San Francisco, Cal.

(1680-500)

(Marked "Defendants' Exhibit before the Special Examiner No. 76, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30th, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 76. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 77.

[Stamped]
Secretary's Office,
Received Apr. 11, 1884.
Answered ————.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, April 3, 1884.

J. L. Willcutt, Esq., Sec'y Southern Pacific R. R. Co., San Francisco, Cal.

Sir: After careful consideration, I have concluded that your company may render an annual report on our form 8-002, in lieu of the half-yearly reports heretofore required. Such annual report should be made for the fiscal year ending June 30, in each year, and should reach this office not later than September 1. This change is made to promote the convenience of your office, and, upon your

assurance that the report will be furnished by the time indicated, the semiannual report will be dispensed with, reserving, however, the right to require it as heretofore, if it should appear necessary.

The monthly reports of earnings and expenses will be required as formerly.

Very respectfully,

F. B. PICKERILL,

For the Commissioner.

(Marked "Defendants' Exhibit before the Special Examiner No. 77, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30th, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 77. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 78.

[Stamped]
Secretary's Office,
Received Sept. 12, 1884.
Answered ————.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, Sept. 6, 1884.

J. L. Willcutt, Esq., Secty. Southern Pac. R. R. Co., San Francisco, Cal.

Dear Sir: I have the honor to acknowledge receipt of your letter of the 23 ulto, also, by express, your report for 1884, on our form 8-008.

Very respectfully,

THOS. J. WALKER,
(In charge of office in the commrs. absence.)

(Marked "Defendants' Exhibit before the Special Examiner No. 78, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 78. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 79.

[Stamped]

Secretary's Office.

Received Feb. 18, 1885.

Answered ————————.

Department of the Interior,

Office of Commissioner of Railroads,

Washington, February 10th, 1885.

J. L. Willcutt, Esq., Secretary Southern Pacific R. R. Co.,

San Francisco, California.

My Dear Sir: Many thanks for your prompt and kind compliance in sending 2 full sets repts.

Very truly yours, &c.,

F. B. PICKERILL.

(Marked "Defendants' Exhibit before the Special Examiner No. 79, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30th, 1893.

STEPHEN POTTER,

Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 79. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 80.

F. B. P.

[Stamped]

Secretary's Office,

Received June 1, 1885.

Answered ————————

Department of the Interior,

Office of Commissioner of Railroads,

Washington, May 22, 1885.

J. L. Wilcutt, Esq., Secretary Southern Pacific R. R. Co.,
San Francisco, Cal.

Dear Sir: I have received the letter of the 14th instant in which you inform me that "by reason of the lease of the Southern Pacific Railroad of California to the Southern Pacific Company, the operations of this road will hereafter be included in the statements of that company."

I beg leave to suggest that the obligations of the Southern Pacific Railroad of California to the United States Government are in no manner affected by the lease to which you refer, and, consequently, that statements of the operations of that company are as necessary now, and will be hereafter, as they have been hitherto. Therefore I respectfully request that you will continue to furnish them.

Most respectfully yours,

J. E. JOHNSTON,

Commissioner.

(Marked "Defendants' Exhibit before the Special Examiner No. 80, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 80. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 81.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, December 21, 1885.

Charles Crocker, Esq., President Southern Pacific R. R. Co., San Francisco, Cal.

Sir: I respectfully inclose herewith rules established by the secretary of the interior, on the subject of the reports and accounts to be furnished to this office, and blank forms of those accounts.

Your obedient servant,

J. E. JOHNSTON,
Commissioner.

[In lead pencil]

Rec'd 1 copy form 8-008 A.

Rec'd 1 copy form 8-002 B.

Also copies Cir. Letter of Nov. 27, '85.

(Copy of enclosure.)

System of Reports.

Department of the Interior,

Office of the Commissioner of Railroads.

Washington, D. C., November 27, 1885.

By virtue of the authority vested in the commissioner of railroads by the third section of the act of June 19, 1878, by and under the direction, and with the approval of the secretary of the interior, I do hereby prescribe the following system of sworn "reports to be rendered" to me by the railroad companies whose roads are in whole or in part west, north, or south of the Missouri river, and to which the United States have granted any loan of credit or subsidy in bonds or lands," which system is to take effect on and after the 31st of December, 1885.

1. Annual report to be returned to the commissioner of railroads, to be made on or before the first day of February of each year, and to include business to the thirty-first of December in the year next preceding, in accordance with form hereto annexed marked "A."

2. Semiannual report, embracing the whole earnings of each road and the whole earnings of each branch, the net earnings of each road, and the net earnings of each branch; the items of charge which make the difference between the gross earnings of each road and its net earnings, and of each branch and its net earnings, specifically showing the items composing such difference, and, in other respects, according to the form hereto annexed marked "B."

3. A monthly report, between the first and fifteenth of each month, showing the gross and net earnings of each road during the last preceding month.

4. Where a portion of any road is subsidized and a portion not subsidized, a separate account and report of the actual gross and net earnings of the subsidized portion of the road, and the actual gross and net earnings of the nonsubsidized part, according to rules 1, 2, and 3, and forms "A" and "B."

5. A report, at least ten days in advance of each meeting of the stockholders, specifying distinctly what business is to be done or submitted for action at such meeting.

6. A report, to be made at least ten days before each meeting of the directors, with a full and specific statement of all business to be submitted to such board.

7. A report, to be made at least three days in advance of each meeting of the executive committee of the board of directors, with a full statement of all business to be submitted to such committee.

8. A report of the minutes of each meeting of the stockholders within ten days after the adjournment of such meeting.

9. A full report of the minutes of each meeting of the board of directors, to be returned within ten days after the adjournment of such meeting, including names of directors present, and how each voted.

10. A full report of the minutes of each meeting of the executive committee, to be submitted within ten days after adjournment, including the names of directors present, and how each voted.

11. A quarterly report of the rates charged during each quarter, within fifteen days after the close of the quarter, for passengers and traffic on each road and each of its branches, both as to through and local traffic on each, and the portion of road or roads to which such rate or rates applied.

12. A distinct and full report of all special rates, if any, to whom allowed; also all, if any, rebates or drawbacks, and to whom, and the aggregate amount of each, to be returned within fifteen days after the close of each quarter.

13. All contracts made with any other railroad or transportation company or companies within ten days after such contract is made, with a copy of the contract if in writing, with a full statement thereof if in parol.

J. E. JOHNSTON,
Commissioner of Railroads.

Approved: L. Q. C. LAMAR,
Secretary.

(4784:500)

(Marked "Defendants' Exhibit before the Special Examiner No. 81, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 81. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 82.

[Stamped] (8-106)
Secretary's Office.
Received Sept. 6, 1886.
Answered—file
Respectfully referred to

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., Aug. 30, 1886.

J. L. Willcutt, Esq., Secretary Southern Pacific R. R. Co.,
San Francisco, Cal.,

Sir: Your favor of the 18th instant, containing enclosures, as stated below, has been received, for which you will please accept my thanks.

Very respectfully (in absence of the commissioner),

EDWARD HERRICK,
In Charge.

Report form "B" for six months ending June 30, 1886. (15006-500)

(Marked "Defendants' Exhibit before the Special Examiner No. 82, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 82. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 83.

[Stamped] (8-106)
Secretary's Office.
Received May 13, 1887.
Answered—file
Respectfully referred to

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., May 7, 1887.

Sir: Your favor of the 29th ultimo containing stated enclosures of reports forms "A" and "B" for December 31, 1886, is received, for which please accept thanks.

Very respectfully,
EDWARD HERRICK,
For the Commissioner.

To J. L. Willcutt, Esq., Secretary Southern Pacific R. R. Co., San Francisco, Cal.
(7747-500)

(Marked "Defendants' Exhibit before the Special Examiner No. 83, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 83. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 84.

[Stamped] (8-007)

Secretary's Office.

Received May 16, 1887.

Answered, receipt a knowledged on blank form.

Respectfully referred to

Department of the Interior,

Office of Commissioner of Railroads,

Washington, May 7, 1887.

J. L. Willcutt, Esq., Secretary Southern Pacific R. R. Co.,
San Francisco.

Dear Sir: Inclosed please find supply of our blank forms, as follows:

.....Form 8-001. General Ledger Footings.

...3...Form 8-002. Semiannual Reports.

.....Form 8-003. Monthly Earnings and Expenses.

....

....

for use in reporting to this office.

You are respectfully requested to give timely notice before the supply is exhausted, in order that you may at all times have a sufficient quantity on which to make prompt returns.

Please acknowledge receipt on attached form.

Very respectfully,

EDWARD HERRICK,
For the Commissioner.

(9-22-'83-300)

(Marked "Defendants' Exhibit before the Special Examiner No. 84, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 84. Filed December 5, 1898. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 85.

[Stamped] (8-106)
Received Sept. 23, 188—.
Answered
Respectfully referred to

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., September 17, 1887.

Sir: Your favor of the 5th instant containing stated enclosures of report, form "B," for June 30, 1887, is received, for which please accept thanks.

Very respectfully,

EDWARD HERRICK,
For the Commissioner.

To J. H. Willcutt, Esq., Secretary Southern Pacific R. R. Co., San Francisco.

(7747-500)

(Marked "Defendants' Exhibit before the Special Examiner, No. 85, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 85. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 86.

[Stamped] (8-106)
Secretary's Office.
Received April 9, 1888.
Answered—file
Respectfully referred to

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., April 2, 1888.

Sir: Your favor of the 22nd ultimo contained stated enclosures of reports "A" and "B" for December 31, 1887, is received, for which please accept thanks.

Very respectfully,

EDWARD HERRICK,
For the Commissioner.

To J. H. Willcutt, Esq., Secretary Southern Pacific R. R. Co., San Francisco.

(7747-500.)

(Marked "Defendants' Exhibit before the Special Examiner No. 86, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 86. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 87.

[Stamped] (8-106)

Received June 11, 1889.

Answered—file.

Respectfully referred to

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., June 4, 1889.

Sir: Your favor of the 22d ultimo, containing stated enclosures of report on form 8-008 "A," for the year ending

December 31, 1888, is received, for which please accept thanks.

Very respectfully,

EDWARD HERRICK,

In Charge.

To J. H. Willcutt, Esq., Secretary Southern Pacific R. R. Co., San Francisco, Cal.

(16032b-500)

(Marked "Defendants' Exhibit before the Special Examiner No. 87, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, September 30, 1893.

STEPHEN POTTER,

Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 87. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 90.

(4-83-250.)

Date. This indenture made and entered into this first day of April, A. D. 1875, by and between the Southern Pacific Railroad Company, a railroad corporation, duly incorporated and organized under and in pursuance of the laws of the State of California, party of the first part,

Trustees. and D. O. Mills and Lloyd Tevis, of the city and county of San Francisco, California, parties of the second part, witnesseth: That

Purpose of Mortgage. Whereas, the said party of the first part desires to complete the construction and equipment of its railroad and telegraph lines in the State of California, running from the city of San Francisco in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to the Colorado river, at or near the "Needles"; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen, to the junction

Route of railroad. with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass via Los Angeles to the

Texas Pacific Railroad near Fort Yuma; and also from Los Angeles to Wilmington on San Pedro Bay, aggregating eleven hundred and fifty miles of railroad and telegraph line, and to cancel its present bonded indebtedness for construction secured by a mortgage heretofore made and bearing date November first, eighteen hundred and seventy, and to that end intends and is about to issue its first mortgage bonds upon said railroad and telegraph line, and its rolling stock, fixtures, and franchises, and also upon the lands granted to it by Congress, by the act of Congress entitled, "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," approved July twenty-seventh, eighteen hundred and sixty-six, and the act entitled, "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March third, eighteen hundred and seventy-one, not sold or otherwise disposed of prior to the execution of this mortgage, aggregating as near as can be estimated eleven millions of acres; and

Property Mortgaged includes land grants.

Whereas, heretofore, to wit, on the nineteenth day of December, A. D. eighteen hundred and seventy-four, the board of directors of said company, pursuant to the statute of the State of California, in such cases made and

provided, at a meeting of said board, at which all the members thereof were present, did, by a resolution to that effect, which was unanimously adopted and passed, determine and direct that first mortgage bonds upon said railroad and telegraph line, its rolling stock, fixtures and franchises, and upon said hereinbefore described lands, to the number of forty-eight thousand (forty-four thousand of which shall be for one thousand dollars each, and four thousand of which shall be for the sum of five hundred dollars each), in seven series to be designated by the letters of the alphabet, commencing with the letter "A," and followed by the succeeding letters in regular order to the letter "G," both inclusive, be prepared, executed and issued by the president and secretary of said company. Series "A" to consist of thirteen thousand bonds for one thousand dollars each, numbered from one to thirteen thousand, both inclusive, and four thousand bonds for five hundred dollars each, numbered from thirteen thousand and one to seventeen thousand, both inclusive. Series "B" to "F," both inclusive, consisting each of five thousand bonds, for one thousand dollars each, numbered from seventeen thousand and one to forty-two thousand, both inclusive, and series "G," consisting of six thousand bonds for one thousand dollars each, numbered from forty-two thousand and one to forty-eight

Board of Directors authorize Mortgage to be made.

Description of Bonds.

thousand, both inclusive. All of said bonds being payable thirty years after date, with interest at the rate of six per centum per annum, payable semiannually. The said series "A" to bear date April first, eighteen hundred and seventy-five, and the said several succeeding series to bear such dates respectively as the board of directors of said company may direct; all of said bonds aggregating the sum of forty-six millions of dollars; and

Whereas, the said board of directors, at the meeting aforesaid, and in the manner and form and by the vote aforesaid, did further resolve, that the said series "A" of said bonds should be executed and issued in substantially the following form, and that the succeeding series of said bonds should be in a similar form, with the necessary changes to conform to said resolutions or orders, which form is as follows, to wit:

The United States of America:

$1,000 in United States Gold Coin

In United States, $1,000 Gold Coin

Form of bond.

(Vignette)

First Mortgage Bond.

No. ....

Series "A."

The Southern Pacific Railroad Company (of California), for value received, promises to pay

Rate of interest.

one thousand dollars to Mark Hopkins, or bearer, in the city of New York, thirty years from the date hereof, with interest thereon at

the rate of six per centum per annum from said date, payable semiannually on the first day of October next ensuing, and on the first day of April and October in each year thereafter, in the city of New York, on presentation and surrender of the requisite coupons hereunto annexed, both principal and interest payable in United States gold coin at par, dollar for dollar.

This bond is one of series "A" of the first mortgage bonds issued and to be issued by the said Southern Pacific *Pacific* Railroad Company in seven series designated respectively by the letters of the alphabet, commencing with "A" and ending with "G," both inclusive. Series "A," consisting of thirteen thousand bonds for one thousand dollars each, numbered from one to thirteen thousand, both inclusive, and four thousand bonds for five hundred dollars each, numbered from thirteen thousand and one to seventeen thousand, both inclusive. Series "B" to "F," both inclusive, consisting each of five thousand bonds for one thousand dollars each, numbered from seventeen thousand and one to forty-two thousand, both inclusive, and series "G," consisting of six thousand bonds for one thousand dollars each, numbered from forty-two thousand and one to forty-eight thousand, both inclusive. All of said bonds being payable thirty years after their respective date, with the interest at the

Series.

rate of six per centum per annum, payable semiannually.

Dates. The said series "A" to bear date April first, eighteen hundred and seventy-five, and the said several succeeding series to bear such dates respectively as the board of directors of said company may direct; all of said bonds aggregating the sum of forty-six millions of dollars.

No preference by reason of priority. The holder of any of such bonds is to have no preference over any other holder of any of said bonds by reason of any priority in date or the time of issuing the same or otherwise.

All of said bonds are secured by a mortgage or deed of trust bearing even date with the bonds constituting series "A," duly executed by said company to D. O. Mills and Lloyd Tevis, San Francisco, California, as trustees, upon its railroad and telegraph lines in the State of California, running from the city of San Francisco in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to the Colorado river at or near the "Needles"; also from

How secured. Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass, via Los Angeles to the Texas Pacific Railroad near Fort Yuma, and also from Los Angeles to Wilmington on San

Pedro Bay, aggregating eleven hundred and fifty miles of railroad and telegraph line, with all the rolling stock, stations, fixtures and franchises for the permanent use thereof, and the appurtenances thereto now owned or held, or that may be hereafter required by said company for the permanent use of said railroad and telegraph lines.

Includes lands.

Also upon all the lands granted to said company by the Congress of the United States, to aid it in the construction of said railroad and telegraph lines, not sold or otherwise disposed of prior to the execution of said mortgage, aggregating, as near as can be estimated, eleven millions of acres.

In testimony whereof, the Southern Pacific Railroad Company has caused its corporate seal to be hereunto affixed, and these presents to be signed by its president and secretary this first day of April, in the year of our Lord one thousand eight hundred and seventy-five.

_____,

President.

_____,

Secretary.

And whereas, the said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further direct that to each of said bonds there should be attached sixty interest coupons, numbered re-

spectively from one to sixty, inclusive, substantially in the following form, to wit:

Form of coupons.

$30 Series A

Southern Pacific Railroad Company of California.

Coupon. Bond No. ——. No. ——.

Thirty Dollars.

Interest due ———.

Payable in the City of New York in United States Gold Coin.

————————, Secretary.

with such changes in amount in the body and in the coupon as shall be necessary to conform to the order of the board of directors aforesaid, in regard to the several amounts or sums which are payable in each class of bonds; and

Whereas, by an act of Congress of the United States of America, approved on the twenty-seventh day of July, A. D. eighteen hundred and sixty-six, entitled, "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," there was granted to the said Southern Pacific Railroad Company, party of the first part, a large body of public lands of the United States, to wit: Every alternate section of public lands, designated by odd numbers, to the amount of ten alternate sections per mile on each side of the

railroad and telegraph line of said company running from the bay of San Francisco to the southeasterly line of the State of California, being about six hundred and thirty-six miles, not sold, reserved, granted, or otherwise appropriated, and free from pre-emption, homestead, or other claims or rights at the time the line of said road is designated by a plat thereof, filed in the office of the commissioner of the general landoffice and such other alternate sections designated by odd numbers as aforesaid, and situated not more than ten miles beyond the limits of the said first alternate sections, which may be selected by said company, in lieu of any of the sections first aforesaid which may have been sold, granted, reserved, pre-empted, occupied as homesteads, or otherwise disposed of, or to which other rights may have attached, as provided in the act of Congress aforesaid for the purpose of aiding in the construction of the railroad and telegraph line of the said party of the first part; and

U. S. Government Land grant.

Whereas, by an act of Congress of the U. S. of America, approved on the third day of March, eighteen hundred and seventy-one, entitled, "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," there was granted to the said Southern Pacific Railroad Company the authority to construct a line of railroad from a point near Tehachapi

Act of Congress authorizing the company to construct lines to connect with Texas

Pacific Railroad and Atlantic and Pacific Railroad.

Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river, with the same rights, land grants and privileges, and subject to the same limitations, restrictions and conditions as were granted to and imposed upon the said Southern Pacific Railroad Company of California, by the aforesaid act of July twenty-seventh, eighteen hundred and sixty-six, before recited, subject to the rights, present and prospective, of the Atlantic and Pacific Railroad Company, which said last line of road is of the length of three hundred and fifty-six and seven one-hundredths miles; and

Mortgage to be executed to trustees.

Whereas, the said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further direct that, to secure the payment of said bonds, a first mortgage upon said road and its rolling stock, stations, fixtures, right of way and franchises, and the lands aforesaid granted by said acts of Congress, not sold or otherwise disposed of, or contracted to be sold, as shown by the books of said company, should be executed under the corporate seal of said company, and be signed by its president and secretary, to D. O. Mills and Lloyd Tevis, both of the city and county of San Francisco, State of California, as trustees for the holders of said bonds; and

Sinking fund $100,000 yearly, commencing 1882.

Whereas, said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further direct that a sinking fund should be created for the redemption and payment of said bonds, by setting apart the sum of one hundred thousand dollars of the net income of said road in the year eighteen hundred and eighty-two, and each year thereafter until all of said bonds, principal and interest, shall have been redeemed or paid, in trust to be loaned out at interest, upon good securities, or otherwise invested under the order and direction of said board of directors, or used to redeem said bonds as often as one hundred thousand dollars shall come into the sinking fund, in which case notice shall be published in one paper in the city of San Francisco and two papers in New York City, that bonds will be redeemed at a price not exceeding their par value, and inviting bids for the surrender thereof at prices to be named, not exceeding the par value of said bonds; the lowest bids less than par to be accepted, and bonds redeemed to the extent of the money in the sinking fund:

Redemption of bonds.

Now, therefore, this indenture witnesseth, that the said Southern Pacific Railroad Company, for the better securing of the payment of the principal and interest of the said first mortgage bonds, and in consideration also of the sum of one dollar, to it in hand paid by the

Description of property conveyed to trustees.

said parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold and aliened, conveyed and confirmed, and by these presents doth grant, bargain, sell, alien, convey and confirm unto the said parties of the second part, and to their successors duly appointed, for the execution of the trusts herein set forth, the following property now or hereafter constituted, purchased, acquired, held in possession and owned by said company, to wit: The whole of the railroad and telegraph line of the said company, running from the city of San Francisco, in the State of California, in a southerly and southeasterly direction, by way of Carnadero Junction, Salinas Valley and Polonio Pass, to the Colorado river, at or near the "Needles"; also, from Carnadero Junction to San Benito; also, from Los Gatos creek, via Goshen, to the junction with the first mentioned line, between Poso creek and Kern river; also, from the junction near Tehachapi Pass, via Los Angeles, to the Texas Pacific Railroad near Fort Yuma, and also from Los Angeles to Wilmington, on San Pedro Bay, aggregating eleven hundred and fifty miles of railroad and telegraph line, including all the rights of way, roadway, track and tracks, together with all the superstructures, depots, depot grounds, station houses, watering-places, work-shops, machine-shops, machinery, sidetracks, turn-

outs, turn-tables, weighing scales, locomotives, tenders, cars, rolling stock of all kinds, full equipments, fixtures, tools and all other property which may be necessarily or ordinarily used in operating or repairing the said railroad, including all of the said property, which is now or may hereafter, in whole or in part, be constructed or completed, purchased, acquired, held, or owned by the said company, pertaining to said railroad, and all the corporate rights, privileges and franchises of said company, pertaining to said road, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging and appertaining, and the reversion and reversions, remainder and remainders, rents, incomes, issues and profits thereof, with all the rights, titles, interests, estate, propety, succession, claim and demand, in law or equity, of the said party of the first part, of, in and to the same, or any part and parcel thereof; to have and to hold the above granted and described premises, property and franchises, with the appurtenances, unto the said parties of the second part, and to the survivor of them, and to their successors, duly appointed, upon trust and for the use and benefit of the person or persons, body or bodies, politic or corporate, who shall have become, or be from time to time, holders of the said "first mortgage bonds," or any of them. Pro-

vided, always, and these presents are upon the express condition that if the said party of the first part, or its successors, shall well and truly pay, or cause or procure to be paid unto the holders, from time to time, of said bonds, and each and every one of them, the said sums of money secured to be paid by the said bonds, and the interest coupons attached thereto, at the places and times, and in the manner set forth in the said bonds, according to the true intent and meaning thereof, then these presents, and all the property, estate, right, franchises, and privileges herein and hereby granted and conveyed, shall cease, determine and be void. But if default shall be made in the payment of the said sums of money specified in said bonds, or in the payment of said interest coupons, or either of them, or any part thereof, and if the same shall remain unpaid for the period of six months from and after the time when the same should have been paid, according to the terms of said bonds, then the said parties of the second part, or either of them, upon the refusal of the other, or their successors in said trust, by themselves, or their agents, or servants, in that behalf, may, upon request of the holder or holders of not less than one-fourth of said bonds, on which the interest or principal shall so be and have so remained in default, as aforesaid, enter into and upon and take possession of all, or in their

Proceedings in event of default in payment.

or his discretion, any part of the said premises and property hereinbefore described, and work and operate the said railroad, and receive the income, receipts and profits thereof, and out of the same pay: First, the expenses of running and operating the same, including therein such reasonable compensation as they or he may allow to the several persons employed or engaged in the running and superintendence of the same, and a reasonable compensation to the parties of the second part, or their successors, or such of them as shall act in the premises, for their or his care, diligence and responsibility in the premises. Second, the expenses of keeping the said road, the appurtenances, the locomotives and the rolling stock thereof in good and sufficient repair, to prevent deterioration in the value thereof, and all other reasonable and proper charges and expenses of the care and management thereof. And third, pay as far as the same will suffice, all interest and principal, if any, which may be due on said bonds; and in case of any deficiency to apply said receipts, after the payment of all said charges and expenses, to the payment thereof, ratably, without preference of any kind, or the said parties of the second part may in such case foreclose this mortgage, and sell and dispose of, according to law, all the rights, property, privileges, franchises, real and personal, with the appurtenances

herein and hereby granted, or so much thereof as may be necessary, and out of the money arising from such sale pay: First, the costs, and charges, and expenses of the foreclosure and sale, including therein reasonable counsel fees for conducting said proceedings, to be allowed and fixed by the Court, but not exceeding thirty thousand dollars. Second, any expenses, costs and charges of the execution of the trust previously incurred and remaining unpaid. Third, a reasonable compensation to the trustees, or one of them, who may act, for their or his care, trouble and service in completing the execution of his trust and the distribution of the proceeds of sale, to be fixed by the Court, but not exceeding twenty thousand dollars. And fourth, to distribute the residue of said proceeds among the holders of said bonds, in proportion to their several interests, until all have been paid in full, principal and accrued interests.

Proceeds from sale of depot lands, etc., not needed for such purpose may be sold and proceeds applied to redemption of bonds.

And the said party of the first part hereby covenants and agrees that if, at any time, any lands now used for depot or shop purposes, or right of way, or water, or any lands not now used, but which may be hereafter used for such purposes, shall, for any cause, cease to be needed or used by said party of the first part for such purposes, the said parties of the second part may sell the same at the price to be agreed upon by the parties of the first and second parts, and apply the money realized

from such sale or sales to the redemption of said bonds in the manner hereinafter provided, in the case of money realized from the sale of lands granted by the United States to the said party of the first part.

And the said party of the first part hereby agrees and covenants to and with the said parties of the second part, and their successors in said trust, that it will pay all ordinary and extraordinary taxes, assessments, and other public burdens and charges which shall or may be imposed upon the property herein described and hereby mortgaged, and every part thereof, and the said parties of the second part, the survivor of them, or their successors in said trust, or any one or more of the holders of said bonds, may in case of default of the said party of the first part in this behalf, pay and discharge the same, and any other lien or encumbrance upon said property, which may in any way, either in law or equity, be or become in effect a charge or lien thereon, prior to these presents, or to which this mortgage may be subject or subordinate, and for all payments thus made the parties so making the same shall be allowed interest thereon at the rate of seven per centum per annum, and such payments, with the interest thereon, shall be and are hereby secured to them by these presents, and declared to be payable and collectible in the same sort of currency or money

Company to pay all taxes, assessments, etc., or, in default, trustees may pay and receive 7% interest on such payments.

wherein they shall have been paid, and the same shall be payable by said party of the first part to said parties of the second part, upon demand in trust for the party or parties paying the same, and may be paid out of the proceeds of the sale of said property and franchises hereinbefore provided.

Will execute any further conveyances required.

And the said party of the first part further covenants and agrees to and with the said parties of the second part, and their successors in said trust, that they will at any and all times hereafter, upon the request of the said parties of the second part, execute, acknowledge and deliver to the said parties of the second part, all and every such further, necessary and reasonable conveyances and assurances, of the said premises or any part thereof, as may, by the parties of the second part, or the survivor of them, or his or their successors in the trust hereby created, be reasonably advised or required for more fully carrying into effect the objects of this conveyance, and the said parties of the second part, and their successors in said trust, shall be entitled to receive a just and proper compensation for all services rendered by them in the discharge of said trust, and the same shall be deemed to be secured hereby.

Compensation to trustees.

And it is hereby stipulated and agreed that the said parties of the second part, and their successors in said trust, shall not be responsi-

ble for the acts or omissions of any agent or agents employed by him or them, in any manner, in and about the execution of the trust hereby created when such agent or agents are selected with reasonable discretion; or with the approbation, or with the knowledge and without the express disapprobation of said party of the first part, nor shall either of the said parties of the second part be responsible for any act or omission of the other in the execution of said trust.

Agents of trustees.

And, therefore, this indenture further witnesseth: That the said party of the first part, for the purpose of securing the payment of the sums of money mentioned in said bonds, and the interest thereon, and in consideration of the premises, and also for and in consideration of the sum of one dollar to the said party of the first part in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, released, enfeoffed, conveyed and confirmed, and by these presents does grant, bargain, sell, release, enfeoff, convey, and confirm unto the said parties of the second part, as trustees, and to their successors and survivor, and their assigns forever,

Conveyance of land to trustees.

All and singular, the said several sections of land so as aforesaid granted by said acts of Congress, and also all the estate, right, title, interest, claim, and demand whatsoever,

at law or in equity, of, in, or to the same, or any part or parcel thereof, which the said party of the first part now has, holds, owns, or is entitled to, or hereafter may or shall acquire have, hold, own, or be, or become entitled to by force or virtue of the said acts of Congress; saving, excepting and reserving all parts and parcels of said lands which have been sold or contracted to be sold or disposed of heretofore, or which are or shall be included in the right of way of the said railroads and telegraph lines of the said company, as defined and granted by the acts of Congress aforesaid, or used for the construction or operation thereof, or for the track, yards, depot grounds, buildings or erections thereof.

Reserved lands.

To have and to hold all and singular the lands hereby granted or intended to be granted, and each and every part and parcel thereof, with the appurtenances thereunto belonging, unto the said parties of the second part, and their successors and survivor, and their assigns forever, as trustees, for the uses and purposes, and upon the trusts, terms, conditions, and agreements in this indenture set forth and declared.

Provided, always, and these presents are upon the express condition, that if the said party of the first part shall well and truly pay, or cause to be paid, to the holders of said bonds, and every of them, the principal sums

Lands shall revert to and vest in the S. P. R. R. if—

of money therein mentioned, according to the tenor thereof, with the interest thereon, at the times and in the manner hereinbefore provided, according to the true intent and meaning of these presents, then and from thenceforth this indenture and the estate hereby granted shall cease and determine, and all the right, title and interest in any and all property hereby conveyed to the parties of the second part, not then disposed of under the powers hereby conferred, shall revert to and vest in the said party of the first part.

This indenture further witnesseth, that these presents and the said bonds are made, executed and delivered upon the trusts, terms, conditions and agreements following, that is to say: That all the lands hereinabove conveyed and mortgaged shall be under the sole and exclusive management and control of the said party of the first part, who shall have full power and authority to make contracts for the sale of the same at such price, on such credit or terms of payment, and such other conditions as shall be agreed on by the said parties of the first and second parts, and as shall seem to them best calculated to secure the payment in full of all the bonds issued as hereinbefore provided, until entry or foreclosure by the trustees, as hereinafter provided. But no title to any tract of land, contracted to be sold by the said party of the first part, shall

Land to be under the control of S. P. R. R.

be given until the whole of the purchase money of said tract shall be paid to said parties of the second part, or their successors or survivor, in cash or in said bonds, or overdue coupons thereof. And for this purpose it is agreed that the said party of the first part and said trustees shall cause all such lands, as they shall from time to time become subject to sale, to be carefully examined and surveyed, and shall affix to each tract or parcel such price as in their judgment shall be most judicious, having in view the interests of all parties, and said lands shall be and remain at all times hereafter open for sale to any person who may desire to purchase and pay therefor; the prices being, nevertheless, at all times subject to revision and alteration by the said parties; and the party of the first part may reserve from sale any lands necessary for depot grounds, or other purposes connected with the construction or operation of the said railroad or telegraph.

Payments to be made to trustees.

Land to be graded, etc.

The purchaser of any such land shall be at liberty to pay for the same in the aforesaid bonds or overdue coupons at par; and when any tract or parcel of said lands shall have been purchased and paid for, either in bonds, coupons, or cash, as hereinbefore provided, the same shall be conveyed by the said parties of the first and second parts to the purchaser, in fee simple, and shall by such conveyance

Lands may be

for in bonds and overdue coupons.

be absolutely and forever released from any and all lien or incumbrance, for or on account of said bonds, or any other debt or obligation of the said party of the first part.

Trustees may convey land by power of attorney.

Provided, that for the sake of convenience in making said conveyances the said trustees shall have power to act by attorney, duly nominated and appointed by them, jointly, by letter of attorney, which shall be duly acknowledged and recorded in each and all of the counties in which said lands or any part thereof are situated; and all deeds made in their names by such attorney shall have the same force and effect as if made by them in person.

Residence of such attorney.

Provided, further, that the attorney so appointed shall be a resident of the city of San Francisco, in the State of California, and shall reside within convenient reach of the party of the first part.

Trustees to cancel bonds and coupons.

The said trustees shall and will cancel and discharge each and every bond and the coupons thereon, and all overdue coupons, which they may receive in payment for land, or by purchase, by defacing the seal of the corporation, perforating the signatures of the president and secretary, and drawing lines across each of the interest coupons, on receipt thereof; and all bonds and coupons received in payment for lands, as aforesaid, shall, when so canceled, be delivered to the said party of the part.

Proceeds of sales of lands shall be applied to the purchase of bonds.

The said trustees shall apply the proceeds of the sales made by them of lands hereby conveyed, to the sole and exclusive purpose of the payment of the bonds provided for in, and issued in conformity to, the terms of this indenture.

And for such purpose all such avails shall, from time to time, as the same are realized, be used in the purchase of such bonds in the market, to be canceled, so long as purchases thereof can be made at par; and whenever such bonds cannot be purchased at that rate, said trustees shall advertise for proposals to sell such bonds to them in two newspapers published in the city of New York, and one newspaper published in the city of San Francisco; and after receiving such proposals they shall have power to purchase such bonds at the lowest terms so offered.

How bonds shall be purchased.

The said party of the first part does hereby covenant and agree to pay to the holders of said bonds, respectively, the said principal sums of money therein mentioned and the interest thereof as aforesaid.

If any default shall be made in the payment either of principal or interest on any of said bonds for six months, after demand at the place of payment when the same shall become due, then the said trustees may, on being requested by the holders of at least one hundred thousand dollars of such bonds, enter into and

take possession of any of the lands above conveyed, and foreclose this mortgage, and may sell at public auction so much of said lands as may be necessary to discharge all arrears of such interest, and apply the proceeds, after deducting the costs, charges, and expenses of such entry, foreclosure and sale, to the payment of such arrears of interest. If any such default shall continue for one year from the time of such demand and refusal, the principal sum of all bonds then outstanding shall become due and payable, and the said trustees may enter into and take possession of all the lands above by these presents mortgaged or conveyed, foreclose this mortgage, and sell at public auction all said lands or so much thereof as may be necessary, first giving at least six months previous notice of the time and place of sale in at least one newspaper published in the city of New York, and in one published in each of the cities of San Francisco, Sacramento, Los Angeles and San Diego; and they shall apply the proceeds thereof, after deducting the costs, charges and expenses of such last-mentioned entry, foreclosure and sale, to the payment of all said bonds then outstanding, and the interest accrued thereon, rendering the surplus, if any there shall be, unto the said party of the first part. In case of any sale upon any such foreclosure or at any such public auction, the said trustees shall make, execute and deliver

In event of default in payments for six months, trustees may foreclose mortgage and dispose of lands at public auction sufficient to discharge all arrears.

a conveyance of the said lands so sold, which shall convey to the purchasers all the rights and privileges of the said party of the first part, in and to the property so sold, to the same extent as the same shall have been previously enjoyed and held by the said party of the first part.

If after any such entry shall be made or any such foreclosure proceedings shall be commenced for the satisfying of interest only, as above provided, and before the lands are sold thereon, the said party of the first part shall pay and discharge such interest and deliver the coupons therefor to the said trustees, and pay all the costs, charges and expenses incurred in such entry and foreclosure and the proceedings thereon, then and in every such case the said trustees shall discontinue their proceedings thereon, and restore to the said party of the first part all of such lands to be held subject to the above conveyance and mortgage, and subject to all the provisions, terms and conditions of these presents, in like manner as if such entry had not been made, nor such foreclosure proceedings commenced. In case a vacancy shall happen in the number of trustees, hereinbefore mentioned as parties of the second part in this indenture, or if one of them shall be temporarily absent, the remaining trustee shall, while said vacancy or absence exists, have all the rights, exercise all the

Foreclosure proceedings for interest to cease if interest is subsequently paid.

powers and discharge all the duties devolving on said trustee by said instrument. But as soon as it conveniently may be done, such vacancy shall be filled by the nomination by the remaining trustee of some proper person to fill such vacancy, which nomination shall be submitted to the board of directors of said company, and, if approved by them, the person so nominated and approved immediately shall become a trustee under this instrument. If said nomination is not approved, another person shall be nominated by said remaining trustee, and in like manner submitted for approval, and so on till three nominations shall have been made. But if three successive nominations shall be made, and none of them shall be approved by the board, said vacancy shall be filled by a committee of three persons, selected, one by said remaining trustee, one by said board of directors, and a third by the two thus selected, and the person appointed trustee by a majority of the committee shall be and remain a trustee under this instrument. And the person regularly appointed a trustee to fill a vacancy in either of the forms above specified shall from and after his said appointment, and his acceptance of the appointment, become vested with the same estates, powers, rights and interests, and charged with the same duties and responsibilities, as if he had been one of the original trustees, parties of the

How vacancy in trustees is to be filled.

second part, named in and executing this instrument; and the prior remaining trustee may and shall execute such conveyances and instruments as may be proper or necessary to vest the same in such new trustee jointly with him, or to furnish evidence of such vesting. If at any time either of the said trustees shall resign his place as trustee by a proper deed in writing to that effect, and such resignation shall be accepted by the said party of the first part, then, and in every such case, the place of such resigning trustee thereupon shall become and be vacant.

Reconveyance by trustees upon payment of bonds and interest.

Whenever all the bonds shall have been made and issued by the said party of the first part under and in conformity to the provisions of this indenture, with the interest thereon, together with all the expenses incurred by the said trustees in the execution of the trust herein and hereby created, shall have been fully paid and satisfied, the said trustees shall reconvey to the said party of the first part all and singular the said lands then in the hands of the said trustees, and not before that time sold or disposed of, in the execution of the trust hereby created. In case the said trustees shall at any time have any trust moneys on hand, received from the sale of the lands hereby conveyed, which will not be required to meet any immediate liabilities of the company, to which said moneys are by these presents devoted, the

said moneys shall be loaned on interest, or deposited on interest, with some bank or trust company in the city of San Francisco or Sacramento, subject to be drawn by checks signed by the trustees or such one of them as they may designate. All of the books of the said company, and of the trustees, relating to the lands hereby conveyed, shall be mutually open to the inspection of said company and said trustees. It shall be the duty of the said trustees to certify and deliver to the said party of the first part the said bonds, as the same from time to time shall be demanded, issued or used by the said party of the first part.

Deposit of surplus moneys by trustees.

And it is hereby mutually agreed by and between the parties hereto that the said parties of the second part, and their survivor and successors, and their heirs, executors and administrators, shall not be answerable for the acts, omissions or defaults of each other, nor for anything short of their own gross negligence or willful misfeasance.

Responsibility of trustees.

It is hereby declared by the parties to this indenture, that all the provisions of said acts of Congress, so far as they are applicable, are hereby made and shall be deemed and taken to be a part of this instrument; and the said provisions in all that concerns the sale and disposal of the said lands hereby conveyed to the parties of the second part are to be observed and strictly and faithfully carried out and fulfilled.

Provisions of acts of Congress to be observed.

And the said party of the first part covenants and agrees to and with the said parties of the second part, that the said party of the first part shall and will, at any and all times hereafter, and from time to time, execute, acknowledge, and deliver, under its corporate seal, to the said parties of the second part, and their survivors and successors, all such other or further assurances, deeds, mortgages, obligations, transfers, indentures and instruments in writing, and shall and will do and perform all such other or further acts or things as shall or may be necessary or proper, or as their counsel, learned in the law, shall deem necessary, proper, or expedient for the better or more effectually securing upon the above conveyed and mortgaged premises the payment of the said bonds so to be issued, and the interest due and to grow due thereon in manner aforesaid, or for carrying into effect the true intent, design, objects, and purposes of these presents. And the said parties of the second part hereby accept the trust created and declared by this instrument, and agree to discharge the same pursuant to the provisions in that behalf herein contained.

Will execute further instruments if necessary to secure payments of bonds.

In witness whereof, the said Southern Pacific Railroad Company has caused these presents to be signed by its president and secretary, and sealed with its corporate seal, and the above parties of the second part have

hereunto set their hands and seal, the day and year first above written.

[Corporate Seal
S. P. R. R. Co.]

CHARLES CROCKER,
President Southern Pacific Railroad Company.

J. L. WILLCUTT,
Secretary Southern Pacific Railroad Company.

We accept the trust declared in the foregoing instrument.

D. O. MILLS, [Seal]
LLOYD TEVIS, [Seal]
Trustees.

State of California,
City and County of San Francisco. } ss.

On this third (3rd) day of July, in the year one thousand eight hundred and seventy-five (1875), before me, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared Charles Crocker, known to me to be the president of the Southern Pacific Railroad Company, and J. L. Willcutt, known to me to be the secretary of the Southern Pacific Railroad Company, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this third day of July, A. D. 1875.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

I, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, residing in the city of San Francisco, duly commissioned and sworn, do certify that on the sixth (6th) day of July, in the year one thousand eight hundred and seventy-five (1875), personally appeared before me in the city and county of San Francisco, State of California aforesaid, Charles Crocker, president of the Southern Pacific Railroad Company, and J. L. Willcutt, secretary of the Southern Pacific Railroad Company, who are both personally known to me to be the said officers of the said Southern Pacific Railroad Company, respectively, and the individuals described in and who have executed the foregoing instrument as such officers of said company, and they each severally and personally, then and there, acknowledged to me that they executed the said instrument as the free act and deed of the said Southern Pacific Railroad Company, freely and voluntarily, and for the uses and purposes therein mentioned; and the said J. L. Willcutt, with whom I am personally acquainted, being by me duly sworn, did depose and say that he resides in the city and county of San Francisco, State of California; that he is and was secretary of the Southern Pacific Railroad Company at the date and time he executed the foregoing instrument; that he knows the corporate seal of said company, and is and was at the date of said instrument the legal custodian of said seal; that the seal affixed to the foregoing instrument was and is such corporate seal, and

was by him so affixed by order of the board of directors of the said Southern Pacific Railroad Company; that he signed his name thereto as secretary of said company by the like order. And the said J. L. Willcutt further said that he was and is acquainted with Charles Crocker, and knows that said Charles Crocker is and was president of the Southern Pacific Railroad Company at the date of said instrument; that the signature of the said Charles Crocker subscribed to said instrument is in the genuine handwriting of the said Charles Crocker, and was thereto by him subscribed by the like order of the board of directors of said company, and in the presence of him, the said deponent.

In witness whereof, I have hereunto set my hand and affixed my official seal at my office in the city and county of San Francisco, State of California, the sixth day of July, A. D. 1875.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

State of California,
City and County of San Francisco. } ss.

On this seventh (7th) day of July, in the year one thousand eight hundred and seventy-five (1875), before me, Charles J. Torbert, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared D. O. Mills and Lloyd Tevis, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal at my office in the city and county of San Francisco, State of California, this seventh day of July, A. D. 1875.

[Notarial Seal] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

Filed for record at the request of D. W. Parkhurst, and recorded in office of the county recorder of San Mateo county, July 8, 1875, at 5 P. M., in Liber 11 of Mortgages, at page 2 and following.

Witness my hand and seal of office.

Paid, $22.50.

[Seal] GEO. H. RICE,
County Recorder.
By W. R. Thomas,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 9, A. D. 1875, at 9 o'clock and 26 minutes, A. M., and recorded in Book 15 of Mortgages, at page 156 et seq., Records of the County of Santa Clara, in the State of California.

Witness my hand and seal of office.

Paid, $15.

[Seal] W. J. COLAHAN,
County Recorder.
By F. J. Saxe,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 9, A. D. 1875, at 8 o'clock and 53 minutes, P. M., and recorded in Book 1 of Mortgages, at page 586 and following, Records of San Benito County, in the State of California.

Witness my hand and seal of office.

Fees, $15, paid.

[Seal] H. M. HAYES,
County Recorder.,

Filed for record at the request of D. W. Parkhurst, July 10, A. D. 1875, at 8 o'clock and 10 minutes, P. M., and recorded in volume 17, page 529 and following pages of the Mortgage Records of the County of Santa Cruz, in the State of California.

Witness my hand and seal of said county recorder.

Paid, $15.00.

[Seal] H. E. MAKINNEY,
County Recorder in and for Santa Cruz County.

Filed for record at the request of D. W. Parkhurst, July 12, A. D. 1875, at 9 o'clock and 55 minutes, A. M., and recorded in Book 1 of Mortgages, page 183 and following, Records of the County of Monterey, in the State of California.

Witness my hand and seal of office.

Fees, $15, pd.

[Seal] HERBERT MILLS,
County Recorder.

Filed for record at the request of D. W. Parkhurst, July 13, A. D. 1875, at six o'clock and 25 minutes, P. M., and recorded in Book "C" of Mortgages, page 540 et seq., Records of the County of San Luis Obispo, in the State of California.

Witness my hand and seal of office county recorder.

Fees, $15.

[Seal] CHAS. W. DANA,
County Recorder.

Filed for record at the request of D. W. Parkhurst, July 14, A. D. 1875, at 2 o'clock and 20 minutes, P. M., and recorded in Book "F" of Mortgages, pages 164 and following, Records of the County of Santa Barbara, in the State of California.

Witness my hand and seal of office of county recorder.

Fees, $15, pd.

[Seal] H. P. STONE,
County Recorder.
By J. O. B. Wentling,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 16, A. D. 1875, at 8 o'clock and 40 minutes A. M., and recorded in Book 15 of Mortgages, page 600 et seq., Records of the County of Los Angeles, in the State of California.

Witness my hand and seal of office county recorder.

Fees, $15, pd.

[Seal] J. W. GILLETTE,
County Recorder.
By D. S. Lovejoy,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 19, A. D. 1875, at nine o'clock and 15 minutes A. M., and recorded in Book Volume 2 of Mortgages, pages 217 and following, Records of the County of Kern in the State of California.

Witness my hand and seal of office.

Fees, $15, pd.

[Seal] F. W. CRAIG,
County Recorder.

Filed for record at the request of D. W. Parkhurst, Esq., July 20, A. D. 1875, at 8 o'clock and 15 minutes, P. M., and recorded in Book "D" of Mortgages, pp. 310 et seq., Records of the County of Fresno, in the State of California.

Witness my hand and seal of office of county recorder.

Pd. $15.

[Seal] A. M. CLARK,
County Recorder.
By C. L. Wainwright,
Deputy.

Filed for record at request of D. W. Parkhurst, July 21, A. D. 1875, at 10 o'clock and 30 minutes, A. M., and recorded in Book "K" of Mortgages, page 1 et seq., Records of the County of Tulare, in the State of California.

Witness my hand and seal of office of county recorder.

Pd. $15.

[Seal] J. E. DENNY,
Recorder.
By John G. Knox,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 23, A. D. 1875, at 10 o'clock and 40 minutes, P. M., and recorded in Book "D" of Mortgages, 544 et seq., Records of the County of San Bernardino, in the State of California.

Witness my hand and seal of office of county recorder.

Pd. $15.

[Seal] SYDNEY P. WAITE,
County Recorder.
By R. S. Swing,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 26, A. D. 1875, at 10 o'clock and 20 minutes, A. M., and recorded in Book No. 7 of Mortgages, pages 103 et seq., Records of the County of San Diego, in the State of California.

Witness my hand and seal of office of county recorder.
Fees, $15.

[Seal] A. S. GRANT,
County Recorder.
By E. G. Haight,
Deputy.

Filed for record at the request of D. W. Parkhurst, July 28, A. D. 1875, at 24 minutes past 4 P. M., and recorded in Book No. 2 of Mortgages, pages 46 et seq., Records of the County of Ventura, State of California.

Witness my hand and seal of office of county recorder.
Fees, $18.

[Seal] JOHN T. STOW,
County Recorder.

Recorded at request of D. W. Parkhurst, August 3, A. D. 1875, at 1 P. M., in Liber 443 of Mortgages, page 309, in the office of the county recorder of the city and county of San Francisco, State of California.

O. H. FRANK,
County Recorder.

Recorded at request of Wells, Fargo & Co., August 20, 1880, at 20 min. past 9 A. M., in Book 1 of Mortgages, page 557 et seq., Records of Merced County.

$15.

[Seal] E. J. HAMILTON,
County Recorder.
By M. H. Walsh,
Deputy.

Recorded at request of Wells, Fargo & Co., August 23d, A. D. 1880, at 5 min. past 9 o'clock A. M., in Vol. 15 of Mortgages, at pages 139 et seq., Records of Stanislaus County.

$15 paid.

[Seal] JOHN McCOY,
Recorder.

Recorded at request of J. L. Willcutt, September 6th, 1880, at 30 min. past 10 o'clock A. M., in Liber 624 of Mortgages, page 305, in the office of the county recorder of the city and county of San Francisco, State of California.

[Seal] W. K. DIETRICH,
County Recorder.
Per Richard Blauvelt,
Deputy.

(Marked "Defendants' Exhibit before the Special Examiner No. 90, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original exhibit, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 14, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Trust Mortgage. Southern Pacific Railroad Company to D. O. Mills and Lloyd Tevis, trustees. Dated April 1, 1875. Resignation of Lloyd Tevis, and ap-

pointment of Gerrit L. Lansing. Acceptance April 18, 1883. Defendants' Exhibit before the Special Examiner No. 90. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit before the Special Examiner No. 91.

This indenture, made this 25th day of August, 1888, between the Southern Pacific Railroad Company, a railroad corporation duly organized and existing under the laws of the United States and of the State of California, party of the first part, the Southern Pacific Company, a corporation organized and existing under the laws of the State of Kentucky, and lessee of portions of the Southern Pacific Railroad, party of the second part, and the Central Trust Company of New York, a corporation created, organized and existing under the laws of the State of New York, party of the third part, witnesseth:

That whereas, the Southern Pacific Railroad Company, as it existed prior to the consolidation and amalgamation hereinafter set out, did, to secure the payment of its bonds in the sum of $46,000,000, heretofore, to wit, on the first day of April, 1875, make and execute its first mortgage on its entire line of railroad *and* then constituted, to wit, on the whole of its railroad and telegraph line running from the city of San Francisco, in the State of California, in a southerly and southeasterly direction, by way of Carnadero Junction, Salinas Valley, and Polonio Pass, to the Colorado river at or near the "Needles"; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line, between Poso creek and Kern river; also from the junc-

tion near Tehachapi Pass via Los Angeles to the Texas Pacific Railroad near Fort Yuma, and also from Los Angeles to Wilmington, on San Pedro bay, aggregating eleven hundred and fifty (1,150) miles of railroad and telegraph line, more or less, and on the several sections of land granted to said Southern Pacific Railroad Company by the acts of Congress of July 27, 1866, and March 3, 1871, as stated in said mortgage, saving, excepting, and reserving, however, all parts and parcels of said lands which had been sold or contracted to be sold or disposed of theretofore, or which were or should be included in the rights of way of said railroads and telegraph lines of said company as defined and granted by the acts of Congress aforesaid, or used for the construction or operation thereof, or for the track, yards, depot grounds, buildings or erections thereof.

And whereas, subsequent thereto, by instrument in writing dated the fourth day of May, 1888, and pursuant to the laws of the State of California in such cases made and provided, the San Jose and Almaden Railroad Company, the Pajaro and Santa Cruz Railroad Company, the Monterey Railroad Company, the Monterey Extension Railroad Company, the Southern Pacific Branch Railway Company, the San Pablo and Tulare Railroad Company, the San Pablo and Tulare Extension Railroad Company, the San Ramon Valley Railroad Company, the Stockton and Copperopolis Railroad Company, the Stockton and Tulare Railroad Company, the San Joaquin Valley and Yosemite Railroad Company, the Los Angeles and San Diego Railroad Company, the Los Angeles and Inde-

pendence Railroad Company, the Long Beach, Whittier and Los Angeles County Railroad Company, the Long Beach Railroad Company, the Southern Pacific Railroad Extension Company, and the Ramona and San Bernardino Railroad Company (railroad corporations organized and existing under the laws of the State of California) amalgamated and consolidated their capital stocks, debts, properties, assets, and franchises with the capital stock, debts, properties, assets, and franchises of the Southern Pacific Railroad Company of California.

And whereas, by force and effect of said amalgamation and consolidation, the said party of the first part has succeeded to all of the debts, properties, assets, and franchises of said several railroad companies, and now holds and owns the said several lines of railroad heretofore owned and held by them respectively, together with their respective properties, assets, and franchises.

And whereas, the said Pajaro and Santa Cruz Railroad Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of five hundred and thirty (530) of its thirty-year first mortgage bonds of one thousand dollars each, bearing date the first day of January, 1885, bearing interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the first day of January, 1885, to S. T. Gage and E. B. Ryan, and covering its railroad, commencing at the town of Pajaro, in the county of Monterey, in the State of California, and extending thence to the city of Santa Cruz, in the county of Santa Cruz, in said State, with a branch line commencing at the town of

Aptos, in said county of Santa Cruz, and running thence in a northerly and northeasterly direction, following the meanders of Aptos creek to the point of confluence of said creek with the creek running from White's Lagoon, a distance of twenty-six miles, as near as may be, together with all its corporate rights, its appurtenances, etc.

And whereas, the said Monterey Railroad Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of two hundred and fifty (250) of its twenty-year first mortgage bonds of one thousand dollars each, bearing date the first day of April, 1880, bearing interest at the rate of five per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the ninth day of March, 1880, to Stephen T. Gage and E. B. Ryan, and covering the whole of the railroad line of said company, commencing at or near the town of Castroville, in the county of Monterey, in the State of California, and running through the county of Monterey to a point at or near the city of Monterey in said county, a distance of fifteen and four-tenths (15.4) miles, together with all its corporate rights, its appurtenances, etc.

And whereas, the said Southern Pacific Branch Railway Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of nine thousand of its fifty-year first mortgage bonds of one thousand dollars each, bearing date the first day of April, 1887, bearing interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust

bearing date the twenty-fourth day of November, 1886, to William E. Brown and Gerrit L. Lansing, and covering the whole of the railroad line of the said company, commencing at a point near San Miguel, in the county of San Luis Obispo, in the State of California, there connecting with the railroad of the Southern Pacific Railroad Company, and running from thence in a general southeasterly direction through and into the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a connection with the railroad of the Southern Pacific Railroad Company, near Newhall, in said Los Angeles county, a distance of about two hundred and fifty miles, as near as may be, together with all the corporate rights pertaining to said road, its appurtenances, etc.

And whereas, the said San Pablo and Tulare Railroad Company, to aid in the construction and completion of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of three thousand seven hundred and fifty (3,750) of its thirty-year first mortgage bonds of one thousand dollars each, bearing date the first day of April, 1878, bearing interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the second day of September, 1878, to Albert Gallatin and Charles Miller, and covering its line of railroad, constructed and unconstructed, running from a point at or near Martinez, in the county of Contra Costa, through the counties of Contra Costa, San Joaquin, Stanislaus, Merced, and Fresno, to a point at or near Los Gatos creek, a distance of one hundred and fifty (150) miles, as near as may be, with all rolling stock, appurtenances, etc.

And whereas, the said Los Angeles and San Diego Railroad Company, to aid in the construction of its line of railroad, did, prior to said amalgamation and consolidation, authorize the issuance of two thousand eight hundred (2,800) of its thirty-year first mortgage bonds of one thousand dollars each, bearing date the first day of July, 1880, with interest at the rate of six per cent per annum, payable semiannually, secured by a mortgage or deed of trust bearing date the second day of December, 1880, to S. T. Gage and E. B. Ryan, and covering its railroad line constructed and unconstructed, from the city of Los Angeles, in a southerly direction, to the city of San Diego, in the southwestern part of the State of California, with all rolling stock, appurtenances, etc., a distance of 140 miles, as near as may be.

And whereas, there are now outstanding $530,000 of said Pajaro and Santa Cruz Railroad Company's bonds; $220,000 of said Monterey Railroad Company's bonds (the balance of $30,000 having been redeemed, canceled and retired); $3,145,000 of said Southern Pacific Branch Railway Company's bonds (the balance, $5,855,000, being unissued and in the hands of the party of the first part); $1,023,000 of said San Pablo and Tulare Railroad Company's bonds (the balance, $2,727,000, being unissued and in the hands of the party of the first part); and $556,000 of the said Los Angeles and San Diego Railroad Company's bonds (the balance, $2,244,000, being unissued and in the hands of the party of the first part).

And whereas, said mortgages and each of them are valid and subsisting liens upon the lines of railroad heretofore described, and now the property of the party of the first part.

And whereas, the owners of all the outstanding bonds heretofore issued as aforesaid by the Pajaro and Santa Cruz Railroad Company, the Monterey Railroad Company, the San Pablo and Tulare Railroad Company, and the Los Angeles and San Diego Railroad Company are willing to surrender said bonds and permit the respective mortgages heretofore made to secure the payment thereof, and hereinbefore described, to be satisfied of record and canceled, and receive in lieu thereof new fifty-year five per cent bonds secured by this mortgage.

And whereas, the party of the first part desires and intends to redeem and take up said mortgage bonds issued by said constituent companies, to-wit, the outstanding mortgage bonds of the Pajaro and Santa Cruz Railroad Company in the sum of $530,000, the outstanding mortgage bonds of the Monterey Railroad Company in the sum of $220,000, the outstanding mortgage bonds of the San Pablo and Tulare Railroad Company in the sum of $1,023,000, and the outstanding mortgage bonds of the Los Angeles and San Diego Railroad Company in the sum of $556,000, and retire the same, and to destroy, cancel, and retire the unissued bonds of the San Pablo and Tulare Railroad Company in the sum of $2,727,000, and the unissued bonds of the Los Angeles and San Diego Railroad Company in the sum of $2,244,000 and cause said existing mortgages to be satisfied of record and canceled, and, as rapidly as the same can be done upon terms satisfactory to the party of the first part, to arrange for the redemption of the mortgage bonds issued by said Southern Pacific Branch Railway Company, and when arrangements have been made for the redemption of all of such bonds

to cause the same to be canceled, and the mortgage securing the same to be satisfied of record, and in lieu of said outstanding bonds to issue new fifty-year five per cent bonds secured by this mortgage, and said party of the first part desires and intends to pay off and discharge the floating debt incurred in the construction and completion of certain portions of its lines of railroad, and desires to complete the construction and equipment thereof, and to that end desires and intends to issue its bonds in an amount necessary to accomplish said objects and purposes, and to secure the payment thereof by mortgage upon certain of its constituent lines of railroad hereinafter more particularly described.

And whereas, heretofore, to wit, on the 21st day of August, 1888, the board of directors of said Southern Pacific Railroad Company, at a meeting of said board, at which all the members thereof were present, by a resolution to that effect, which was unanimously adopted, passed, and concurred in, did determine and direct that bonds of said company be prepared, executed, and issued in its name and under its corporate seal, and signed by its president and secretary, to bear date the first day of October, 1888, in the sum of one thousand dollars each, to the number of thirty-eight thousand, numbered from one to thirty-eight thousand, inclusive, payable to the Central Trust Company of New York, or to the bearer thereof, fifty years after date, with interest at the rate of five per cent per annum, payable semiannually, on the first days of April and October of each year ensuing its date, payable both principal and interest in United States gold coin in the city of New York.

And whereas, the said board of directors, at the meeting aforesaid, and in the manner and form, and by the vote aforesaid, did further order and direct that said bonds should be drawn in substantially the following form, to wit:

$1,000. United States of America. $1,000.

Southern Pacific Railroad Company (of California).

First Mortgage Five Per Cent Gold Bonds.

The Southern Pacific Railroad Company (of California) acknowledges itself indebted to the Central Trust Company of New York, or to the bearer hereof, in the sum of one thousand dollars gold coin of the United States, which sum it promises to pay to the bearer hereof, or, if registered, to the registered holder hereof, fifty years after date, and it further promises that on presentation and surrender at or after maturity of the respective interest coupons hereunto annexed, it will pay to the person presenting the same, or, if this bond is registered and the interest coupons appertaining thereto canceled, it will pay to the registered holder hereof, interest on such principal sum at the rate of five per cent per annum, semiannually, on or after the first day of April and October of each year ensuing the date hereof, both principal and interest payable at the office or agency of the company in the city of New York, in United States gold coin.

This is one of the first mortgage bonds issued under and secured by the indenture of mortgage or deed of trust from this company to the Central Trust Company of New York, trustee, dated the twenty-fifth day of August, 1888.

None of said bonds are to be in anywise binding or obligatory unless authenticated by a certificate endorsed

thereon, signed by said trustee or its successor or successors in said trust.

This bond may, at any time, upon production thereof to said railroad company, and proper endorsement being made thereon, and either with or without the surrender to said railroad company for cancellation of all unpaid interest coupons appertaining thereto, be registered upon the books of the company in the name of the holder thereof, and thereupon its transferability by delivery will cease, and thereafter it can be transferred only by the registered holder or his attorney by transfer duly made upon said books.

In witness whereof, the said Southern Pacific Railroad Company has caused its corporate seal to be hereunto affixed, and this bond to be signed by its president and secretary, this first day of October, one thousand eight hundred and eighty-eight.

SOUTHERN PACIFIC RAILROAD COMPANY,

_____,

President.

_____,

Secretary.

And whereas, the said board of directors, at the meeting aforesaid, and in the manner and form and by the vote aforesaid, did further direct that to each of said bonds there should be attached one hundred interest coupons, numbered respectively from one to one hundred, inclusive, substantially in the following form, to-wit:

$25. (Coupon.) $25.

Southern Pacific Railroad Company (of California).

First Mortgage Five Per Cent Gold Bond No. ——.

Interest coupon for twenty-five dollars, due ————, payable in the city of New York, in United States gold coin.

Coupon No. ——. ————,

Treasurer.

And that all such coupons should bear the impression of the engraved signature of the treasurer, which impression should be regarded and treated, in fact and in law, as equivalent to a manual signing by said officer.

And whereas, the said board of directors, at the meeting aforesaid, and in manner and form and by the vote aforesaid, did further direct that, to secure the payment of said bonds, a mortgage upon certain of its constituent lines of railroad and telegraph and upon certain of its lands should be executed in its name and under its corporate seal, and be signed by its president and secretary, to the Central Trust Company of New York as trustee for the holders of said bonds; said mortgage to cover the railroad and telegraph line, rolling stock, stations, fixtures, and franchises held, owned, and possessed by it in the following constituent lines of railroad, all lying within the State of California:

First.—Running from Hillsdale to the town of New Almaden, all in Santa Clara county, being seven and eight-tenths (7.8) miles in length, more or less.

Second.—Running from Pajaro, in Monterey county, to Santa Cruz, in Santa Cruz county; also running from Ap-

tos, in said Santa Cruz county, northerly and northeasterly, about five miles, being twenty-six and two-tenths (26.2) miles in length, more or less.

Third.—Running from a point at or near Castroville Station in Monterey county to a point at or near Monterey in said county; thence northwesterly to a point at or near Pacific Grove Retreat; and thence southwesterly to a point near the mouth of the Carmel river—an estimated length of thirty-one and twelve-hundredths (31.12) miles.

Fourth.—Running from a point near San Miguel in San Luis Obispo county, in the State of California, there connecting with the railroad of the Southern Pacific Railroad Company, and running from thence in a general southeasterly direction through and into the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a connection with the railroad of the Southern Pacific Railroad Company in said Los Angeles county near Newhall, being about two hundred and fifty (250) miles in length.

Fifth.—Running from a point near Martinez, in Contra Costa county, to Tracy, in San Joaquin county, a distance of forty-seven and fifty-eight hundredths (47.58) miles, more or less; running thence from Tracy through the counties of San Joaquin, Stanislaus, Merced, Fresno, and Tulare, to a connection with the San Joaquin division of the railroad of the party of the first part at or near Pampa, in the county of Kern, a distance of two hundred and sixty miles, more or less, and aggregating three hundred and seven and fifty-eight hundredths (307.58) miles, more or less.

Sixth.—Running from a point at or near Avon in Contra Costa county to a point on the Central Pacific Railroad at or near Pleasanton, in the county of Alameda, a distance of thirty-five (35) miles, more or less.

Seventh.—Running from a point at or near Oakdale, in Stanislaus county, through and into the counties of Stanislaus, Merced, Fresno, and Tulare, to a point at or near the town of Poso, in Kern county, a distance of two hundred (200) miles, more or less, with branches connecting with the Central Pacific Railroad to or near Modesto in Stanislaus county, a distance of sixteen (16) miles, more or less, to or near Merced, in Merced county, a distance of ten (10) miles, more or less, to or near Sycamore, in Fresno county, a distance of ten (10) miles, more or less, to or near Fresno, in Fresno county, a distance of ten (10) miles, more or less, with a branch to or near Tulare in Tulare county, there connecting with the San Joaquin Division of the railroad of the party of the first part, a distance of sixteen (16) miles, more or less; said line and branches being two hundred and sixty-two (262) miles in length, more or less.

Eighth.—Running from Berenda Station, in Fresno county, to a point at or near Perry's Ranch in said county, a distance of twenty-five (25) miles, more or less.

Ninth.—Running from a point at or near the city of Los Angeles, in the county of Los Angeles, to the towns of Anaheim and Santa Ana, in said county, and thence through the counties of Los Angeles and San Diego, to a point at or near the city of San Diego, in said last-mentioned county, a distance of one hundred and forty (140) miles, more or less.

Tenth.—Running from a point at or near the city of Los Angeles to Santa Monica, in Los Angeles county, a distance of eighteen and fifty hundredths (18.50) miles, more or less.

Eleventh.—Running from a point at or near Long Beach, in Los Angeles county, to Whittier, thence to Ramona, a distance of thirty (30) miles, more or less; also running from a point at or near Los Angeles to a point on the main line of the railroad of the party of the first part, between El Monte and Puente, and thence northeasterly to a point on or near San Dimos creek, a distance of thirty (30) miles, more or less—all in said county of Los Angeles, and aggregating sixty (60) miles in length, more or less.

Twelfth.—Running from a point at or near Long Beach Junction, in Los Angeles county, to the town of Long Beach; thence easterly to the boundary line between the Ranchos Los Cerritos and Los Alamitos, in said county—a distance of four (4) miles, more or less.

Thirteenth.—Running from a point on the line of the Wilmington Division of the railroad of the party of the first part, between the towns of Wilmington and San Pedro, in the county of Los Angeles, through said town of San Pedro, to a point at or near Point Fermin; thence westerly through the lands of the San Pedro Harbor, Dock and Land Association to the westerly boundary of said lands—all in the county of Los Angeles, and being five (5) miles in length, more or less.

Fourteenth.—Running from a point at or near Ramona, in Los Angeles county, to a point at or near Crafton, in San Bernardino county, a distance of seventy-one (71) miles, more or less.

Fifteenth.—Running from the city of San Francisco, in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to Mojave Junction; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass, via Los Angeles to Yuma, in the county of San Diego; and also from Los Angeles to Wilmington on San Pedro bay—aggregating nine hundred and eight miles of railroad and telegraph line, or thereabouts.

And also to cover the lands granted to the Southern Pacific Railroad Company by the acts of Congress of July 27, 1866, and March 3, 1871, above referred to, not sold or contracted to be sold or disposed of prior to the execution of this mortgage, or included in the right of way of the railroads and telegraph lines of the said company, or used or to be used for the construction or operation thereof, or for the track, yards, depot grounds, buildings, or erections thereof.

And whereas, said board of directors, at the meeting aforesaid, and in the manner and form and by the vote aforesaid, did further direct that a sinking fund should be created for the redemption and payment of said bonds by setting apart the sum of twenty thousand dollars of the net income derived by said company from the constituent lines of railroad herein mortgaged in the year 1898, and in each year thereafter, until all of said bonds, principal and interest, shall be redeemed or paid, in trust, to be loaned out at interest upon good securities, or otherwise invested, under the order and direction of said board

of directors, or used to redeem said bonds as often as twenty thousand dollars shall come into the sinking fund; in which case notice shall be published in one daily paper in the city of New York, and one daily paper in the city of San Francisco, for such length of time as the board of directors may order, that said bonds will be redeemed, and inviting bids for the surrender thereof, at prices to be named, the lowest bids to be accepted, and bonds redeemed to the extent of the money in the sinking fund.

And whereas, the Southern Pacific Company, party of the second part herein, and lessee of certain portions of the railroads of the party of the first part affected by this mortgage, has been in writing notified and informed of this mortgage and has, in writing, by order of its board of directors, given its consent thereto, and as an evidence of such consent has become a party hereto:

Now, therefore, this indenture witnesseth, that the said party of the first part, for the purpose of securing the payment of the sums of money mentioned in said bonds, and the interest thereon, and in consideration of the sum of one dollar to the said party of the first part in hand paid by the party of the third part, the receipt whereof is hereby acknowledged, has granted, bargained, sold, released, enfeoffed, conveyed, and confirmed and by these presents does grant, bargain, sell, release, enfeoff, convey, and confirm, unto the said party of the third part, as trustee, and to its successors and assigns forever, the following property, now and hereafter constructed, purchased, acquired, held in possession, and owned by said party of the first part, to wit:

Its constituent lines of railroad lying within the State of California, and running:

First.—From Hillsdale to the town of New Almaden, all in Santa Clara county, being seven and eight-tenths (7.8) miles in length, more or less.

Second.—From Pajaro in Monterey county, to Santa Cruz, in Santa Cruz county; also running from Aptos, in said Santa Cruz county, northerly and northeasterly, about five (5) miles—being twenty-six and two-tenths (26.2) miles in length, more or less.

Third.—From a point at or near Castroville Station, in Monterey county, to a point at or near Monterey, in said county; thence northwesterly to a point at or near Pacific Grove Retreat; and thence southwesterly to a point near the mouth of Carmel river—an estimated length of thirty-one and twelve hundredths (31.12) miles.

Fourth.—From a point near San Miguel, in San Luis Obispo county, in the State of California, there connecting with the railroad of the Southern Pacific Railroad Company, and running from thence in a general southeasterly direction through and into the counties of San Luis Obispo, Santa Barbara, Ventura, and Los Angeles, to a connection with the railroad of the Southern Pacific Railroad Company in said Los Angeles county near Newhall, being about two hundred and fifty (250) miles in length.

Fifth.—From a point at or near Martinez, in Contra Costa county, to Tracy, in San Joaquin county, a distance of forty-seven and fifty-eight hundredths (47.58) miles, more or less; thence from Tracy through the counties of San Joaquin, Stanislaus, Merced, Fresno, and Tulare, to a connection with the San Joaquin Division of the railroad of the party of the first part, at or near Pampa, in the

county of Kern, a distance of two hundred and sixty (260) miles, more or less, and aggregating three hundred and seven and fifty-eight hundredths (307.58) miles, more or less.

Sixth.—From a point at or near Avon, in Contra Costa county, to a point on the Central Pacific Railroad, at or near Pleasanton, in the county of Alameda, a distance of thirty-five miles, more or less.

Seventh.—From a point at or near Oakdale, in Stanislaus county, through and into the counties of Stanislaus, Merced, Fresno, and Tulare to a point at or near the town of Poso, in Kern county, a distance of two hundred (200) miles, more or less, with a branch connecting with the main line of the Central Pacific Railroad to or near Modesto, in Stanislaus county, a distance of sixteen (16) miles, more or less, a branch to or near Merced, in Merced county, a distance of ten (10) miles, more or less, a branch to or near Sycamore, in Fresno county, a distance of ten (10) miles, more or less, a branch to or near Fresno, in Fresno county, a distance of ten (10) miles, more or less, a branch to or near Tulare, in Tulare county, there connecting with the San Joaquin Division of the railroad of the party of the first part, a distance of sixteen (16) miles, more or less; said line and branches being two hundred and sixty-two (262) miles in length, more or less.

Eighth.—From Berenda Station, in Fresno county, to a point at or near Perry's ranch, in said county, a distance of twenty-five (25) miles, more or less.

Ninth.—From a point at or near the city of Los Angeles, in the county of Los Angeles, to the towns of Anaheim and Santa Ana, in said county, and thence through

the counties of Los Angeles and San Diego to a point at or near the city of San Diego, in said last-mentioned county, a distance of one hundred and forty (140) miles, more or less.

Tenth.—From a point at or near the city of Los Angeles to Santa Monica, in Los Angeles county, a distance of eighteen and fifty hundredths (18.50) miles, more or less.

Eleventh.—From a point at or near Long Beach, in Los Angeles county, to Whittier; thence to Ramona, a distance of thirty (30) miles, more or less; also running from a point at or near Los Angeles to a point on the main line of the railroad of the party of the first part between El Monte and Puente, and thence northeasterly to a point on or near San Dimos creek, a distance of thirty (30) miles, more or less—all in said county of Los Angeles, and aggregating sixty (60) miles in length, more or less.

Twelfth.—From a point at or near Long Beach Junction in Los Angeles county to the town of Long Beach; thence easterly to the boundary line between the Ranchos Los Cerritos and Los Alamitos in said county—a distance of four (4) miles, more or less.

Thirteenth.—From a point on the line of the Wilmington Division of the railroad of the party of the first part, between the towns of Wilmington and San Pedro, in the county of Los Angeles, through said town of San Pedro, to a point at or near Point Fermin; thence westerly through the lands of the San Pedro Harbor, Dock and Land Association to the westerly boundary of said lands—all in the county of Los Angeles, and being five (5) miles in length, more or less.

Fourteenth.—From a point at or near Ramona, in Los Angeles county, to a point at or near Crafton, in San Bernardino county, a distance of seventy-one (71) miles, more or less.

Fifteenth.—From the city of San Francisco in a southerly and southeasterly direction by way of Carnadero Junction, Salinas Valley and Polonio Pass to Mojave Junction; also from Carnadero Junction to San Benito; also from Los Gatos creek via Goshen to the junction with the first-mentioned line between Poso creek and Kern river; also from the junction near Tehachapi Pass via Los Angeles to Yuma, in the county of San Diego; also from Los Angeles to Wilmington on San Pedro bay, aggregating nine hundred and eight (908) miles of railroad and telegraph line, or thereabouts.

Including all the rights of way, roadway, track and tracks, together with all the superstructures, depots, depot grounds, station houses, watering places, sidetracks, turnouts, turntables, weighing scales, locomotives, tenders, cars, rolling stock of all kinds, equipments, fixtures, tools, telegraph lines, and all other property which may now or hereafter be acquired for the purpose of operating the constituent lines of railroad hereby mortgaged, including all of the said property which now is or may hereafter, in whole or in part, be constructed or completed, purchased, acquired, held, or owned by the said company, pertaining to that portion of the said lines of railroad hereby mortgaged, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging and appertaining, and the reversion and reversions, remainder and remainders, rents, incomes, issues, and prof-

its thereof, with all the rights, titles, interest, estate, property, succession, claim, and demand, in law or equity, of the said party of the first part, of, in, and to the same, or any part or parcel thereof.

Also, all and singular the several sections of land so as aforesaid granted by said acts of Congress, and also all the estate, right, title, interest, claim, and demand whatsoever, at law or in equity, of, in, or to the same, or any part or parcel thereof, which said party of the first part now has, holds, owns, or is entitled to, or hereafter may or shall acquire, have, own, or be or become entitled to, by force or virtue of the said acts of Congress, saving, excepting, and reserving all parts and parcels of said lands which have been sold or contracted to be sold or disposed of heretofore, or which are or shall be included in the right of way of the railroads and telegraph lines of the said company, as defined and granted by the acts of Congress aforesaid, or used for the construction and operation thereof, or for the track, yards, depot grounds, buildings, or erections thereof.

To have and to hold the above granted and described premises, property, and franchises, with the appurtenances, unto the said party of the third part, and to its successors duly appointed, upon trust and for the use and benefit of the person or persons, body or bodies politic or corporate, who shall have become or be from time to time holders of the said first mortgage bonds secured hereby, or any of them.

Provided always, and these presents are upon the express condition, that if the said party of the first part, or its successors, shall well and truly pay or cause or pro-

cure to be paid unto the holders, from time to time, of said bonds and each and every one of them, the said sums of money secured to be paid by the said bonds, and the interest coupons attached thereto, at the places and times, and in the manner, set forth in the said bonds, according to the true intent and meaning thereof, then these presents, and the property, estate, rights, franchises, and privileges herein and hereby granted and conveyed shall cease, determine, and be void.

Until default shall be made by the said party of the first part, its successors and assigns, in the payment of the principal or interest of the said bonds, or some of them or some part thereof as hereinafter provided, the said party of the first part, its successors and assigns, shall be suffered and permitted to possess and enjoy the said premises, with their appurtenances, and all and singular the rights and franchises hereinbefore described, and to receive, take, and use the tolls, income, earnings, and profits thereof, and the trustee or trustees hereunder shall have full power in its or their discretion, upon written request of the party of the first part, its successors or assigns, to convey by way of release or otherwise, and fully release from the lien of this mortgage, any lands or other property of any description (except only the lands granted by acts of Congress, as hereinbefore prescribed) which in its or their judgment shall not be necessary for or for use in connection with the said railroads, and to consent to such changes in the location of tracks, depots, and other buildings as in its or their judgment may be expedient, and to make and deliver the releases and conveyances necessary to carry the same into effect, but any

lands or other property which may be acquired for permanent use in substitution for any so released or conveyed shall thereupon become subject to the lien of this mortgage, and upon request of the trustee or trustees hereunder shall be conveyed to it or them by the party of the first part, its successors or assigns, upon the trusts of these presents.

But if default shall be made in the payment of the said sums of money specified in said bonds, or in the payment of said interest coupons, or either of them, or any part thereof, and if the same shall remain unpaid for the period of six months from and after the time when the same should have been paid according to the terms of said bonds, then the said party of the third part, or its successor in said trust, by itself or its agents or servants in that behalf, may, upon request of the holder or holders of not less than one-fourth of said bonds then outstanding, on which the interest or principal shall be and have so remained in default as aforesaid, enter into and upon and take possession of all, or in its or their discretion any part of, the said constituent lines of railroad hereby mortgaged, and work and operate the said constituent lines of railroad, and receive the income, receipts, and profits thereof and out of the same pay:

First, the expense of running and operating the same, including therein reasonable counsel fees and such reasonable compensation as it may allow to the several persons employed or engaged in the running and superintendence of the same.

Second, the expense of keeping the said roads, the appurtenances, the locomotives, and the rolling stock

thereof in good and sufficient repair to prevent deterioration in the value thereof, and all other reasonable and proper charges and expenses of the care and management thereof.

And third, pay, as far as the same will suffice, all interest and principal, if any, which may be due on said bonds, and in case of any deficiency apply the said receipts, after the payment of all said charges and expenses, to the payment thereof, ratably, without preference of any kind.

Or the said party of the third part may, in case of default as aforesaid, and upon request as aforesaid, foreclose this mortgage, and sell and dispose of according to law, all of the constituent lines of railroad hereby mortgaged, together with all of the rights, property, privileges, franchises, real and personal, connected therewith or pertaining thereto, that are subject to this mortgage, with the appurtenances herein and hereby granted, or so much as may be necessary, and out of the money arising from such sale, pay:

First, the cost and charges and expenses of the foreclosure and sale.

Second, any expenses, costs and charges of the execution of the trust, previously incurred and remaining unpaid.

And third, distribute the residue of said proceeds among the holders of said bonds and coupons in proportion to their several interests until all have been paid in full, principal and accrued interest.

If any default shall be made in the payment of interest on any of said bonds for six months after demand at the

place of payment, when the same shall become due, then the said trustee may, on being requested by the holders of at least one hundred thousand dollars of such bonds, enter into and take possession of any of the lands above conveyed, and foreclose this mortgage thereon, and may sell at public auction upon like notice as hereinafter prescribed so much of said lands as may be necessary to discharge all arrears of such interest, and apply the proceeds, after deducting the cost, charges, and expenses of such entry, foreclosure, and sale, to the payment of such arrears of interest. If any such default shall continue for one year from the time of such demand and refusal, the principal sum of all bonds then outstanding shall become due and payable, and thereupon or upon default in the payment of the principal of such bonds at their maturity, the said trustee may enter into and take possession of all the lands above by these presents mortgaged or conveyed, foreclose this mortgage thereon, and sell at public auction all said lands, or so much thereof as may be necessary, first giving at least six months' previous notice of the time and place of sale in at least one newspaper published in the city of New York, and in one published in each of the cities of San Francisco, Sacramento, Los Angeles, and San Diego; and they shall apply the proceeds thereof, after deducting the costs, charges, and expenses of such last-mentioned entry, foreclosure, and sale, to the payment of all said bonds then outstanding, and the interest accrued thereon, rendering the surplus, if any there shall be, unto the said party of the first part.

In case of any sale upon any such foreclosure or at any such public auction, the said trustees shall make, execute, and deliver a conveyance of the said lands so sold, which shall convey to the purchasers all the rights and privileges of the said party of the first part, in and to the property so sold, to the same extent as the same shall have been previously enjoyed and held by the said party of the first part.

If after any such entry shall be made or any foreclosure proceedings shall be commenced, for the satisfying of interest only, as above provided, and before the lands are sold thereon, the said party of the first part shall pay and discharge such interest and deliver the coupons therefor to the said trustee, and pay all the costs, charges, and expenses incurred in such entry and foreclosure and the proceedings thereon, then and in every such case the said trustee shall discontinue its proceedings thereon, and restore to said party of the first part all of such lands, to be held subject to the above conveyance and mortgage, and subject to all the provisions, terms, and conditions of these presents, in like manner as if such entry had not been made, nor such foreclosure proceedings commenced.

All lands granted or conveyed under the acts of Congress hereinbefore referred to and in anywise covered or affected by the provisions hereof shall be subject to the express provision that if, and so long as the bonds issued under and secured by the said indenture of mortgage to D. O. Mills and Lloyd Tevis, dated April 1, 1875, or any thereof shall remain outstanding, any and all sales made in the manner in said last-mentioned indenture of mortgage prescribed shall absolutely and forever release the

said lands from any and all lien or encumbrance of, under, or in respect of this mortgage or the bonds issued thereunder; and if and when all the bonds issued under said indenture of mortgage of April 1, 1875, shall have been fully satisfied and discharged and the lien of such last-mentioned indenture of mortgage upon such lands fully released, then the said lands, so far as they remain unsold at that time, shall be subject to the like provisions in respect to sale and conveyance, and release from the lien of this mortgage, as are in said mortgage of April 1, 1875, prescribed in respect to sale, and conveyance, and release from the lien thereof.

This indenture further witnesseth, that said party of the first part hereby agrees and covenants to and with said party of the third part that it will create a sinking fund for the redemption and payment of said bonds, by setting apart the sum of twenty thousand dollars of the net income derived by it from the constituent lines of railroad herein mortgaged, in the year 1898, and in each year thereafter, until all of said bonds, principal and interest, shall be redeemed or paid, in trust, to be loaned out at interest upon good securities, or otherwise invested under the order and direction of the board of directors of the party of the first part, or used to redeem said bonds as often as twenty thousand dollars shall come into the sinking fund; in which case notice shall be published in one daily paper in the city of New York, and one daily paper in the city of San Francisco, for such length of time as said board of directors may order, that said bonds will be redeemed, and inviting bids for the surrender thereof, at prices to be named, the lowest bids

to be accepted and bonds redeemed to the extent of the money in the sinking fund.

And this indenture further witnesseth, that the said party of the first part hereby agrees and covenants to and with the said party of the third part, and its successors in said trust, that it will pay all ordinary and extraordinary taxes, assessments, and other public burdens and charges which shall or may be legally imposed upon the property herein described and hereby mortgaged and every part thereof, and the said party of the third part, or its successors in said trust, or any one or more of the holders of said bonds, may, in case of default of the said party of the first part in this behalf, pay and discharge the same, and any other lien or encumbrance upon said property, which may in any way, either in law or equity, be or become in effect a charge or lien thereon prior to these presents, or to which this mortgage may be subject or subordinate, and, for all payments thus made, the parties so making the same shall be allowed interest thereon at the rate of six per cent per annum, and such payments, with the interest thereon, shall be and are hereby secured to them by these presents, and declared to be payable and collectible in the same sort of currency or money wherein they shall have been paid, and the same shall be payable by said party of the first part to said party of the third part, upon demand, in trust for the party or parties paying the same, and may be paid out of the proceeds of the sale of said property and franchises hereinbefore provided.

And this indenture further witnesseth, that the said party of the first part further covenants and agrees to

and with the said party of the third part, and its successors in said trust, that it will at any and all times hereafter, upon the request of the said party of the third part, execute, acknowledge, and deliver to the said party of the third part and its successors in said trust all and every such further necessary and reasonable conveyances and assurances of the said premises, or any part thereof, as may by the party of the third part or its successors in the trust hereby created, be reasonably advised or required for more fully carrying into effect the objects of this conveyance.

And the said party of the third part and its successors in said trust shall be entitled to receive a just and proper compensation for all services rendered by it or them in the discharge of said trust, and the same shall be deemed to be secured hereby. And it is hereby stipulated and agreed that the said party of the third part and its successors in said trust shall not be responsible for the acts or omissions of any agent or agents employed by it or them in any manner in and about the execution of the trust hereby created, when such agent or agents are selected with reasonable discretion, or with the approbation or with the knowledge and without the express disapprobation of said party of the first part.

This indenture further witnesseth, that should the said party of the third part for any reason fail, refuse, or become incompetent to discharge the duties or trusts herein conveyed to, imposed on, and accepted by it, then and in that event the board of directors of the party of the first part shall nominate and appoint a successor or successors to said party of the third part, which said suc-

cessor or successors shall be vested with the same properties, and clothed with the same powers, rights, and duties, and be subject to the same obligations, as the said party of the third part named herein, as fully as though he, they, or it had been named herein as such trustee or trustees.

And this indenture further witnesseth, that the party of the first part hereby agrees to take up, pay off, discharge, and retire the outstanding bonds of the Pajaro and Santa Cruz Railroad Company in the sum of five hundred and thirty thousand dollars ($530,000), the outstanding bonds of the Monterey Railroad Company in the sum of two hundred and twenty thousand dollars ($220,000), the outstanding bonds of the San Pablo and Tulare Railroad Company in the sum of one million and twenty-three thousand ($1,023,000) dollars, and the outstanding bonds of the Los Angeles and San Diego Railroad Company in the sum of five hundred and fifty-six thousand ($556,000) dollars, and to destroy, cancel, and retire all of said bonds unissued and in its hands, and cause said existing mortgages to be satisfied of record and canceled, and to take up said outstanding bonds with the new fifty-year five per cent bonds to be issued under this mortgage, upon such terms as may be agreed upon, said redemption and cancellation and satisfaction to be made without unnecessary delay.

It is further provided, covenanted, declared, and agreed that the party of the third part and its successors in the trust hereby created is and are from time to time to authenticate and certify as issued hereunder, and de-

liver to the party of the first part, its successors or assigns, first mortgage bonds in the form or substantially the form above prescribed, to amounts which shall aggregate, but shall not exceed, twenty-two thousand five hundred dollars par value of such bonds per mile for each mile of road constructed or acquired by the said party of the first part, its successors or assigns, and described in the foregoing thirteen subdivisions hereof, designated from "First" to "Third," both inclusive, and from "Fifth" to "Fourteenth," both inclusive, and for twenty-five miles in addition thereto, and to further amounts not exceeding seven thousand five hundred dollars per mile, additional thereto, for expenses and disbursements incurred in and about double tracking, masonry, iron bridges, rolling stock, or other betterments or improvements either to the permanent way, local or terminal facilities, or rolling stock. The said party of the third part, and its successors in the trust hereby created, is and are also from time to time to authenticate and certify as issued hereunder, and deliver to the party of the first part, its successors and assigns, additional first mortgage bonds in the form or substantially the form above prescribed, to the amounts to which bonds of the Southern Pacific Branch Railway Company issued or to be issued under and secured by the mortgage of November 24, 1886, hereinbefore referred to, shall have been deposited with the trustee hereunder.

All bonds so deposited with the trustee hereunder shall be held as collateral security for the bonds issued under this mortgage until all of the bonds issued under

and secured by such mortgage of the Southern Pacific Branch Railway Company shall have been so deposited, whereupon such deposited bonds shall be canceled and the mortgage securing the same shall be satisfied of record. While such Southern Pacific Branch Railway Company's bonds remain so on deposit with the trustee, neither such bonds nor the coupons appertaining thereto shall be required to be paid unless proceedings shall be taken for the foreclosure of the mortgage securing the same, in which case all the bonds and coupons which shall have been so deposited with the trustee shall be entitled to share for the benefit of the bonds issued under this mortgage, on equal terms with the other bonds issued under and secured by said Southern Pacific Branch Railway Company mortgage.

When said Southern Pacific Branch Railway Company mortgage shall have been satisfied of record, the party of the first part, its successors and assigns, shall be entitled from time to time to receive from the trustee hereunder, duly authenticated as issued under and secured by this mortgage, bonds in respect of the line described in the foregoing subdivision "Fourth" hereof, on the mileage basis of $22,500 and $7,500, as above prescribed, in respect of the lines described in subdivisions "First" to "Third," both inclusive, and from "Fifth" to "Fourteenth," both inclusive, due allowance being made on the basis of $30,000 per mile for the bonds theretofore issued against deposit of said Southern Pacific Branch Line bonds.

Authenticating certificates to such bonds are to be

signed, and deliveries thereof to be made, by the trustee under this mortgage from time to time upon presentation to it of certificates, in writing, executed by the president and chief engineer of the party of the first part, or its successors, reciting the facts authorizing delivery of such bonds hereunder, and without other evidence or proof of such facts; provided, however, that, notwithstanding anything herein contained, the party of the first part, or its successors, may at any time or from time to time, require the party of the third part or its successors to authenticate and certify hereunder and deliver to said party of the first part, its successors or assigns, and permit the sale of such amount or amounts of such bonds as the party of the first part or its successors may think fit; provided, that the proceeds of any such bonds issued in excess of the limits hereinabove prescribed shall be received by the trustee or trustees hereunder, and not by the party of the first part or its successors or appointees, and shall be disbursed by said trustee or trustees to the party of the first part or its successors or appointees, only pro rata as and when the party of the first part or its successors would have been entitled to receive such bonds under the foregoing provisions hereof; and provided, further that the total amount of bonds issued under or secured by this deed of trust is not in any event to exceed for all purposes herein mentioned the aggregate sum of thirty-eight million dollars.

In witness whereof, the said Southern Pacific Railroad Company, the party of the first part, has caused these

presents to be signed in its name by its president, and attested by its secretary, and sealed with its corporate seal.

SOUTHERN PACIFIC RAILROAD COMPANY,
By CHAS. F. CROCKER,
President.

Attest:
[Seal] J. L. WILLCUTT,
Secretary.

The Southern Pacific Company, party of the second part, the lessee of portions of the said Southern Pacific Railroad affected by the foregoing instrument, does hereby consent thereto, and hereby waives any and all objection it might or could have to the execution thereof, or to the issuance of the bonds therein provided for; provided that nothing in this consent or assent contained shall be construed as a grant of any of the property rights of said Southern Pacific Company, or of its franchises, to the mortgagee or trustee named herein.

In testimony whereof, said Southern Pacific Company has caused these presents to be signed in its name by its third vice-president and attested by its secretary, and its corporate seal to be hereunto affixed, this 25th day of August, 1888.

SOUTHERN PACIFIC COMPANY,
By CHAS. F. CROCKER,
Third Vice-President.

Attest:
[Seal] G. L. LANSING,
Secretary.

The Central Trust Company of New York, party of the third part to the foregoing mortgage or deed of trust, hereby accepts the trust created and declared in and by the foregoing instrument, and agrees to discharge the same pursuant to the provisions in that behalf therein contained.

In testimony whereof, said Central Trust Company of New York has caused these presents to be signed in its name by its second vice-president, and attested by its assistant secretary, and its corporate seal to be hereunto affixed, this seventh day of September, 1888.

CENTRAL TRUST COMPANY OF NEW YORK,

By E. FRANCIS HYDE,

Second Vice-President.

Attest:

[Seal] B. G. MITCHELL,

Asst. Secretary.

State of California,
City and County of San Francisco. } ss.

I, J. F. Kingwell, a notary public in and for the city and county of San Francisco, State of California, residing in said city and county, duly commissioned and sworn, do certify that on the 25th day of August, A. D. 1888, personally appeared before me, in said city and county, Charles F. Crocker, president of the Southern Pacific Railroad Company, and J. L. Willcutt, secretary of the Southern Pacific Railroad Company, who are both personally known to me to be the said officers of the said Southern Pacific Railroad Company, respectively, and the individ-

uals described in and who have executed the foregoing instrument as such officers of said company, and they each severally and personally then and there acknowledged to me that they executed the said instrument as the free act and deed of the said Southern Pacific Railroad Company, freely and voluntarily, and for the uses and purposes therein mentioned; and the said J. L. Willcutt, with whom I am personally acquainted, being duly sworn, did depose and say: That he resides in the city of Oakland, county of Alameda, and State of California; that he is and was the secretary of the Southern Pacific Railroad Company at the date and time he executed the foregoing instrument; that he knows the corporate seal of said company, and is and was at the date of execution of said instrument the legal custodian of said seal; that the seal affixed to the foregoing instrument was and is such corporate seal, and was by him so affixed by order of the board of directors of said Southern Pacific Railroad Company; that he signed his name thereto as secretary of said company by the like order. And the said J. L. Willcutt further said that he was acquainted with Charles F. Crocker, and knows that said Charles F. Crocker is and was president of the Southern Pacific Railroad Company at the date and execution of said instrument; that the signature of the said Charles F. Crocker subscribed to said instrument is in the genuine handwriting of the said Charles F. Crocker, and was thereto by him subscribed by the like order of the board of directors of said company, and in the presence of him, the said deponent.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

[Seal] J. F. KINGWELL,
Notary Public in and for the City and County of San Francisco, California.

State of California,
City and County of San Francisco. } ss.

On this twenty-fifth (25) day of August, in the year one thousand eight hundred and eighty-eight (1888), before me, J. F. Kingwell, a notary public in and for the said city and county of San Francisco, State of California, duly commissioned and qualified, personally appeared Chas. F. Crocker, known to me to be the 3rd vice-president of the Southern Pacific Company, and G. L. Lansing, known to me to be the secretary of the Southern Pacific Company, the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, this 25th day of August, A. D. 1888.

[Seal] J. F. KINGWELL,
Notary Public in and for the City and County of San Francisco, State of California.

State of New York,
City and County of New York. } ss.

On this 7th day of September, in the year 1888, before me, Charles Edgar Mills, a commissioner of the State of California, in and for the State of New York, residing in said city of New York, personally appeared E. Francis Hyde and Benjamin G. Mitchell, known to me to be the second vice-president and assistant secretary of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal this 7th day of September, A. D. 1888.

[Seal] CHARLES EDGAR MILLS,
Commissioner for California in New York, 115 and 117 Broadway, N. Y. City.

[Endorsed]: Southern Pacific Railroad Company of the first part, Southern Pacific Company of the second part, and Central Trust Company of New York of the third part. Deed of trust. Dated August 25, 1888.

Recorded at the request of H. D. La Motte, Oct. 2nd, A. D. 1888, at 30 minutes past 4 P. M., in liber No. 21 of Mortgages, page 10, Records of San Mateo Co., Cal.

E. EIKERENKOTTER,
Recorder.
By Claude Fox,
Deputy Recorder.

Recorded at request of H. D. La Motte, in Book 84 of Mortgages, page 319 et seq., Oct. 3d, 1888, at 14 min. past 9 o'clock A. M., Records of Santa Clara Co., Cal.

Pd. $19.

CHAS. P. OWEN,
County Recorder.

Filed for record at the request of H. D. La Motte, Oct. 3, A. D. 1888, at 1 o'clock P. M., and recorded in Vol. 1 of Trust Deeds, page 123, San Benito County Records.

Pd. $19.

R. SHAW,
Recorder.
By Robt. Shaw,
Deputy Recorder.

Filed for record at the request of H. D. La Motte, Oct. 4, A. D. 1888, at 9 o'clock A. M., and recorded in Vol. 54 of Mortgages, page 83, Oct. 4, 1888, Santa Cruz County Records.

Paid, $19.

ED. MARTIN,
County Recorder.

Recorded at the request of H. D. La Motte, Oct. 4th, 1888, at —— minutes past 2 P. M., in Record A of Trust Deeds, page 409, Monterey County, Cal.

Recorder's fees, $19.

DAVID WALLACE,
County Recorder.

Recorded at request of H. D. La Motte, Oct. 6, 1888, at 30 minutes past 8 o'clock A. M., in Book "P" of Mortgages, at page 513 et seq., San Luis Obispo County Records.

$18.50.

[Seal]

F. E. DARKE,
Recorder.
By F. E. Darke, Jr.,
Deputy.

Recorded at request of H. D. La Motte, at 25 min. past 10 A. M., Oct. 8, 1888, in Book W of Mortgages, page No. 1, Records of Santa Barbara County, Cal.

Pd. $18.50.

C. A. STUART,
County Recorder.

Recorded at the request of H. D. La Motte, Oct. 9th, A. D. 1888, at 8 min. past 9 o'clock A. M., in Book 11 of Mortgages, page 56, Records of Ventura Co., Cal.

$16.75, pd.

L. F. EASTIN,
County Recorder.
By Fred. Hund,
Deputy Recorder.

Recorded at request of H. D. La Motte, Oct. 10, 1888, at 48 min. past 8 A. M., in Book 179, page 74 of Mortgages, Los Angeles County Records.

Fees, $12.90.

FRANK A. GIBSON,
County Recorder.
By Arthur Bray,
Deputy.

Recorded at request of H. D. La Motte, Oct. 11, 1888, at 8 min. past 8 A. M., in Book 11 of Mortgages, page 129, Records San Bernardino County.

$18.50, paid.

LEGARE ALLEN,
County Recorder.
By Gordon G. Ives,
Deputy Recorder.

Received for record Oct. 12, 1888, at 9 o'clock A. M., at request of H. D. La Motte, and recorded in Book No. 43 of Mortgages, page 1 et seq., San Diego Co., Cal.

Fees.....$23.50, pd.
Comparing. 3

26.50, pd.

E. G. HAIGHT,
County Recorder.
By B. F. Moore,
Deputy.

Recorded at request of H. D. La Motte, Oct. 13th, 1888, at 25 min. past 9 o'clock A. M., in Book 8 of Mortgages, page 376, Records of Kern County.

Fees, $20.00, paid.

N. R. PACKARD,
County Recorder.
By F. A. Shedd,
Deputy.

Recorded at request of H. D. La Motte, at 43 min. past 7 A. M., October 15th, 1888, in Vol. 4 of Trust Deeds, page 446 et seq., Records of Tulare County, Cal.

Fees, $20.00, pd.

W. F. THOMAS,
County Recorder.

Recorded at request of H. D. La Motte, at 45 min. past 1 P. M., Oct. 15th, 1888, in Vol. 86 of Deeds of Fresno County Records, pp. 195 et seq.

$20.

C. L. WAINWRIGHT,
Recorder.

Recorded at request of H. D. La Motte, October 16th, 1888, at 40 min. past 8 A. M., in Book "P" of Mortgages, page 106, Records of Merced County.

$20.00, paid.

J. G. ELLIOTT,
County Recorder.

Recorded at request of H. D. La Motte, October 16th, 1888, at 25 min. past 1 P. M., in Liber 35, Deeds of Trust, page 65, Records of Stanislaus County.

Fee, $10.50.

C. S. ABBOTT,
County Recorder.
By E. E. Howard,
Deputy.

Recorded at the request of H. D. La Motte, October 17th, 1888, at 40 minutes past 12 o'clock M., in Book "X" of Mortgages, page ——, Calaveras County Records.

$20.00.

A. L. WYLLIE,
Recorder,
By Edw. Casey,
Deputy.

Recorded at request of H. D. La Motte, October 18th, 1888, at 35 min. past 10 o'clock A. M., in Book "A," Vol. 64, page 458 of Deeds, San Joaquin County Records.

$20.00, paid.

[Seal]

J. F. MOSELEY,
County Recorder.
By G. E. Housken,
Deputy.

Recorded at request of H. D. La Motte, October 18th, A. D. 1888, at 30 min. past 4 P. M., in Vol. 54 of Deeds, page 267, Records of Contra Costa County.

$17.50, pd.

C. S. COUSINS,
County Recorder.
By A. E. Dunkel,
Deputy Recorder.

Recorded in the office of the county recorder of the city and county of San Francisco, Oct. 24, 1888, at 45 min. past 9 o'clock A. M., in Liber 1320 of Deeds, page 85.

A. T. SPOTTS,
County Recorder.
By C. H. McCourtney,
Deputy.

Recorded Oct. 26th, 1888, at 46 min. past 3 P. M., in Liber 302 of Mortgages, page 1, Records of Alameda County.

F. D. HINDS,
County Recorder.

Recorded in the office of the county recorder of the city and county of San Francisco, Oct. 27th, 1888, at 25 min. past 10 o'clock A. M., in Liber 890 of Mtgs., page 283.

A. T. SPOTTS,
County Recorder.

State of California,
City and County of San Francisco. } ss.

I, Alexander Russell, county recorder, do hereby certify that the annexed is a whole, true, and correct copy of an original record, as will appear by reference to book 1320 of Deeds, page 85 (and 890 Mtges, 283), now in my office, and that said copy has been compared with the original and is a correct transcript therefrom.

Witness my hand and official seal this sixth day of March, A. D. 1889.

(Signed) ALEXANDER RUSSELL,
County Recorder.

Per M. Warschauer,
Deputy.

[Seal Recorder's Office, City and County of San Francisco, Cal.]

(Marked "Defendants' Exhibit before the Special Examiner No. 91, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original exhibit, and find it to be a full, true and correct copy thereof.

San Francisco, Oct. 14, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Deed of trust. Southern Pacific Railroad Company of the first part, Southern Pacific Company of the second part, and Central Trust Company of New York of the third part. Dated August 25, 1888. Defendants' Exhibit before the Special Examiner No. 91. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 92.

(8-106.)

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., October 24, 1889.

Sir: Your favor of the 16th instant, containing stated enclosures of report on Form 8-008 A for the year ending June 30, 1889, for the Southern Pacific Railroad Company is received, for which please accept thanks.

Very respectfully,

W. M. THOMPSON,
In charge of office.

To G. L. Lansing, Esq., Controller Southern Pacific Co.,
San Francisco, Cal.

(16032-500.)

(Marked Defendant's Exhibit before the Special Examiner No. 92, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 3, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 92. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 93.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., October 21, 1890.

G. L. Lansing, Esq., Secretary and Controller Southern Pacific Railroad Company, San Francisco, Cal.

Dear Sir: I have to acknowledge receipt of your letter of the 8th instant, together with reports on Form 8-008A for the year ending June 30, 1890, for the Central Pacific, Oregon and California and the Southern Pacific Railroad Companies. Also report on Form 8-002B for the Central Pacific Railroad Company for the half year ending June 30, 1890.

Very truly yours,

W. M. THOMPSON,
In charge of office.

(Marked "Defendants' Exhibit before the Special Examiner No. 93, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 3, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 93. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 94.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., October 21, 1891.

G. L. Lansing, Esq., Secretary and Controller Southern Pacific Company, San Francisco, Cal.

Dear Sir: I have to acknowledge the receipt of your letter of the 9th instant, inclosing reports as follows:

Central Pacific R. R. Co., for half year ending June 30, 1891, Form B.

Central Pacific R. R. Co., for year ending June 30, 1891, Form A.

Oregon and California R. R. Co., for year ending June 30, 1891, Form A.

Southern Pacific R. R. Co. of Cal., for year ending June 30, 1891, Form A.

Very truly yours,

W. M. THOMPSON,
Bookkeeper.

(Marked "Defendants' Exhibit before the Special Examiner No. 94, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 3, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 94. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 95.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., September 28, 1892.

G. L. Lansing, Esq., Secretary and Controller Southern Pacific Company, San Francisco, Cal.

Dear Sir: I have to acknowledge the receipt of your letter of the 19th instant, transmitting reports on Form 8-008A for the year ending June 30, 1892, for the Southern Pacific Railroad Company of California, and the Oregon and California Railroad Company.

Very truly yours,

W. M. THOMPSON,
Bookkeeper.

(Marked "Defendants' Exhibit before the Special Examiner No. 95, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 3, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 95. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 96.

Department of the Interior,
Office of Commissioner of Railroads,
Washington, D. C., September 16, 1893.

G. L. Lansing, Esq., Secretary and Controller Southern Pacific Company, San Francisco, Cal.

Sir: The annual report of the Southern Pacific Railroad Company of California, on our Form 8-008A, for the year ending June 30, 1893, has been received.

Very respectfully,

F. E. STORM,
Bookkeeper.

(Marked "Defendants' Exhibit before the Special Examiner No. 96, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 3, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 96. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner, "L."

Directors' Meeting.

August 12, 1873.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held on Tuesday, August 12, 1873, at 2 o'clock P. M.

Present: Directors D. D. Colton, Robt. Robinson, Chas. Mayne, S. T. Gage, and J. L. Willcutt.

Absent: Directors C. P. Huntington and E. H. Miller, Jr.

In the absence of the president and vice-president on motion, duly seconded, Chas. Mayne was called to the chair.

The record of proceedings of the last meeting of the board was read and approved.

The secretary presented the certificate of election—at the annual meeting held on the 11th inst.—which, on motion, was received and ordered to be placed on file.

The board then proceeded to the election of officers, with the following result:

Officers elected. C. P. Huntington was elected president. David D. Colton was elected vice-president. E. H. Miller, Jr., was elected treasurer. J. L. Willcutt was elected secretary.

Whereupon the chair was vacated, and, in the absence of the president, D. D. Colton presided as vice-president of the board.

The following resolution was offered by Robt. Robinson, and being duly seconded, was adopted by a unanimous vote:

Resolution to consolidate with the S. P. branch R. R.

Resolved, that this corporation do consolidate with the Southern Pacific Branch Railroad Company upon the terms and conditions set forth in the articles of association, amalgamation and consolidation now herewith presented, which are hereby approved, and the vice-president (in the absence of the president) and secretary of this company are hereby authorized and required to subscribe the name of this corporation to said articles and affix its corporate seal thereto, and deliver said articles as the act and deed of this corporation.

Thereupon the vice-president and secretary executed the said articles of association, amalgamation and consolidation and the corporate seal of the company was thereto affixed.

No other business appearing before the board, the foregoing minutes were read and approved, whereupon the meeting adjourned "sine die"—it first having been ordered that the articles referred to be engrossed upon these minutes.

(The articles of consolidation with the S. P. Branch R. R., unexecuted, are then set out, but are omitted in accordance with the stipulation of counsel from this copy.)

(Signed) J. L. WILLCUTT,
Secretary.

Director's Meeting.

August 19, 1873.

The board of directors named in article third of the articles of association, amalgamation, and consolidation of a new corporation under the name and style of the Southern Pacific Railroad Company, to wit: C. P. Huntington, D. D. Colton, Robert Robinson, Chas. Mayne, S. T. Gage, E. H. Miller, Jr., and J. L. Willcutt, met at the office of the company on Tuesday August 19th, 1873, at 2 P. M., for the purpose of organizing as a board by the election of the necessary officers for the ensuing year.

Present: D. D. Colton, Robert Robinson, Charles Mayne, S. T. Gage, and J. L. Willcutt.

Absent: Directors C. P. Huntington, and E. H. Miller, Jr.

On motion, Chas. Mayne was called to the chair and J. L. Willcutt appointed temporary secretary.

The articles of association, amalgamation, and consolidation were thereupon presented and read and ordered to be engrossed upon the minutes of the meeting. Following is a copy.

(The articles of association, amalgamation, and consolidation, as executed, are then set out, but are omitted from this in accordance with the stipulation of counsel.)

Officers of new corporation, elected.

The Board then proceeded to the election of officers with the following result: C. P. Huntington was elected president; David D. Colton was elected vice-president; E. H. Miller, Jr., was elected treasurer; J. L. Willcutt, was elected secretary.

Bonds of Treasurer and Secretary.

The bond of E. H. Miller, J., was presented in the sum of $50,000, with Leland Stanford and Mark Hopkins sureties thereon, and in like manner the bond of J. L. Willcutt, the secretary, in the sum of $20,000, with H. M. Newhall and Chas. Mayne sureties thereon, and on motion duly seconded were accepted and approved as the official bonds of said treasurer and said secretary and ordered to be placed on file.

No other business appearing before the board, and the foregoing minutes having been duly read and approved, on motion duly seconded the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secy.

Directors' Meeting.

April 10th, 1874.

A meeting of the board of directors of the Southern Pacific Railroad Co. was held at the office of the company on Friday, the 10th day of April, A. D. 1874, at 2 o'clock P. M., pursuant to the call of the vice-president.

Present: Directors D. D. Colton, Robert Robinson, E. H. Miller, Jr., S. T. Gage, and J. L. Willcutt, vice-president, D. D. Colton, presiding.

Absent: Directors C. P. Huntington and Chas. Mayne.

The record of proceedings of the last meeting of the board were read and approved.

The following resolution was offered by Robert Robinson, and being duly seconded, was adopted by a unanimous vote:

Resolution adopting line of road from San Fernando to Los Angeles thence to Spadra, Map "AA."

Resolved, that the line of railroad as it has been surveyed and laid out on map marked "AA" and described as follows: Commencing at a point in the northwest quarter of section 3, township 2 north, range 15 west, San Bernardino base and meridian, and running thence in a southeasterly direction to the city of Los Angeles, and thence in an easterly direction to a point in the northeasterly quarter of section 27, township 1 south, range 9 west, San Bernardino base and meridian—being map and profile of section No. 1, Southern Pacific Railroad and Telegraph Line—authorized by the 23d section of the Texas Pacific Railroad Act—approved March 3d, 1871, be and the same is hereby adopted as the route of said railroad between the points named.

The following resolution was offered by E. H. Miller, Jr.,—and on motion duly seconded was adopted by a unanimous vote:

Vice-President and Secretary authorized to sign Deeds.

Resolved, that in the absence of the presi- of this company, who resides in New York, the vice-president and secretary be, and they are hereby, authorized to sign deeds of any and all town lots or lands sold by the Southern Pacific Railroad Company, and affix the seal of said company thereto as the act and deed of said company.

No further business appearing before the board, and the foregoing minutes having been read and approved on motion duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

September 8th, 1874.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Tuesday, September 8th, 1874, pursuant to the by-laws, Vice-president Chas. Crocker presiding.

Present: Directors Chas. Crocker, Robert Robinson, E. H. Miller, Jr., S. T. Gage, and J. L. Willcutt.

Absent: Directors C. P. Huntington and D. D. Colton.

The record of proceedings of the last meeting of the board was read and approved.

The following resolution was offered by Robert Robinson, and being duly seconded was adopted by a unanimous vote:

Resolution adopting line of road from 40th to 60th mile southeasterly from Goshen, Map "D."

Resolved, that the line of the railroad as it has been surveyed and laid out on map marked "D," and described as follows: Commencing at a point at the end of the 40th mile on the line south from the intersection of the Southern Pacific Railroad with the San Joaquin Valley branch of the Central Pacific Railroad, said point of commencement being in the northwest quarter of section two, township twenty-five

south, range twenty-five east, Mount Diablo base and meridian; running thence in a southeasterly direction, and ending at the termination of the 20th mile therefrom in the northeast quarter of section nine, township twenty-eight south, range twenty-six east, Mount Diablo base and meridian, be and the same is hereby adopted as the route of said railroad between the points named.

Completion of same Reported.

The Contract and Finance Company reported the completion of the section of road referred to in the foregoing resolution and asked the acceptance of same, whereupon the following resolution was offered by E. H. Miller, Jr., and on motion duly seconded was adopted by a unanimous vote:

Resolution to accept completed road.

Resolved, that the company accepts the twenty miles of railroad and telegraph line completed by said Contract and Finance Company, and that the proportion of stock and bonds which said Contract and Finance Company are entitled to receive under their contract of May 1, 1871, be, and the same is hereby, ordered to be issued and delivered to said Contract and Finance Company and a proper receipt taken therefor and filed as a voucher for such payment.

The following resolution was offered by Robert Robinson and being duly seconded was adopted by a unanimous vote:

Resolution adopting line of road from Carnadero to Soledad "AAA."

Resolved, that the line of the railroad as it has been surveyed and laid out on map marked "AAA" and described as follows: Commencing at a point where the Pajaro Branch of the Southern Pacific Railroad intersects the main line of said railroad at Carnadero Station (2.2 miles southerly from Gilroy); thence southerly, via Pajaro and Salinas, to a point on the northerly bank of the Salinas river near the town of Soledad—a distance of 60.4 miles from said point of commencement—be, and the same is hereby, adopted as the route of said railroad between the points named.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secy.

Directors' Meeting.

October 1st, 1874.

A meeting of the board of directors of the Southern Pacific Railroad Company was held at the company's office on Thursday, October 1st, A. D. 1874, at 2 o'clock P. M., pursuant to call of Directors Chas. Crocker, D. D. Colton, and Robert Robinson—Vice-president, Chas. Crocker presiding.

Present: Directors Chas. Crocker, D. D. Colton, Robert Robinson, E. H. Miller, Jr., S. T. Gage, and J. L. Willcutt.

Absent: Director C. P. Huntington.

The following resolution was offered by Robert Robinson, and, being duly seconded, was adopted by a unanimous vote:

Resolution adopting line of road from 60th to 73.65th mile south from Goshen. Map "E."

Resolved, the line of the railroad as it has been surveyed and laid out on map marked "E," and described as follows: Commencing at a point at the end of the 60th mile on the line south from the intersection of the Southern Pacific Railroad with the San Joaquin Valley Branch of the Central Pacific Railroad, said point of commencement being in the northeast quarter of section nine, township 28 south, range twenty-six east, Mount Diablo base and meridian; running thence in a southeasterly direction a distance of thirteen

and 65-100ths miles, be, and the same is, hereby adopted as the route of said railroad between the points named.

Completion of same reported.

The Contract and Finance Company having reported the completion of the road referred to in the foregoing resolution, and asked the acceptance of same, the following resolution was offered by S. T. Gage, and, being duly seconded, was adopted by a unanimous vote:

Resolution to accept completed road.

Resolved, that the company accept the thirteen and 65-100 miles of railroad and telegraph line completed by said Contract and Finance Company, and that the proportion of stock and bonds which said Contract and Finance Company are entitled to receive under their contract of May 1, 1871, be, and the same is hereby, ordered to be issued and delivered to said Contract and Finance Company, and a proper receipt taken therefor and filed as a voucher for such payment.

Presentation of C. and F. Co. account for construction of 50 miles of road in Los Angeles Co.

The Contract and Finance Company having presented an account for the construction of fifty miles of road in Los Angeles county, as laid out on map marked "AA" and described on page 136 of these minutes, the following resolution was offered by E. H. Miller, Jr., and adopted by a unanimous vote:

Resolution accepting same and authorizing payment of account.

Resolved, that the company accept the 50 miles of railroad and telegraph line completed by said Contract and Finance Company, and it is hereby ordered that stock and bonds be issued to said Contract and Finance Company in payment therefor in the same proportion as provided for in contract for construction of main line (dated May 1st, 1871), the said contract having been made prior to the consolidation of the main line with the line from a point at or near Taheechaypah pass via Los Angeles.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion, duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secty.

Directors' Meeting.

December 17, 1874.

A meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Thursday, December 17th, A. D. 1874, at two o'clock P. M., pursuant to adjournment, all of the directors being present, to wit: Charles Crocker, David D. Colton, E. H. Miller, Jr., Robert Robinson, N. T. Smith, S. T. Gage, and J. L. Willcutt—Chas. Crocker presiding as president of the board.

The following resolution was offered by Robert Robinson, to wit:

Resolution to consolidate with L. A. & S. P. R. R. Co.

Resolved that this corporation do consolidate with the Los Angeles and San Pedro Railroad Company upon the terms and conditions set forth in the articles of association, amalgamation and consolidation now herewith presented, which are hereby approved, and the president and secretary of this company are hereby authorized and required to subscribe the name of this corporation to said articles and affix its corporate seal thereto and deliver said articles as the act and deed of this corporation—which resolution was adopted by the unanimous vote and concurrence of the full board of directors—the articles referred to in this resolution being as follows:

(The articles of association, amalgamation and consolidation with L. A. & S. P. R. R. Co., unexecuted, are then set out, but are omitted from this copy in accordance with the stipulation of counsel.)

No further business appearing before the board and the foregoing minutes having been read and approved, on motion, duly seconded, the meeting adjourned to Saturday, 19th instant, at 11 o'clock A. M.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

December 19th, 1874.

The board of directors named in article third of the articles of association, amalgamation, and consolidation of the new corporation under the name of the Southern Pacific Railroad Company, to wit: Charles Crocker, David D. Colton, E. H. Miller, Jr., Robert Robinson, Nicholas T. Smith, Stephen T. Gage, and Joseph L. Willcutt, met at the office of the company on Saturday, December 19, 1874, at 11 o'clock A. M., pursuant to adjournment—the full board being present.

On motion, David D. Colton occupied the chair, and J. L. Willcutt was appointed secretary of the meeting.

Robert Robinson reported that the articles of association, amalgamation, and consolidation had been duly executed and filed in the office of the secretary of state, and presented a certified copy thereof reading as follows:

(The articles of association, amalgamation, and consolidation with L. A. & S. P. R. R., as executed are then set out, but are omitted from this copy in accordance with the stipulation of counsel.)

* * * * * * * * * * * * * * *

[Signed] J. L. WILLCUTT,
Secretary.

Directors' Meeting.

February 2, 1875.

A meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Tuesday, February 2, 1875, at 11 o'clock A. M., pursuant to the call of the president.

Present directors: Charles Crocker, Robert Robinson, N. T. Smith, E. H. Miller, Jr., and J. L. Willcutt.

Absent directors: David D. Colton and S. T. Gage.

President Chas. Crocker presided at the meeting.

Communication from Western Development Company.

A communication was presented from the Western Development Company, reading as follows:

To the President and Directors of the Southern Pacific Railroad Company.

Gentlemen: The undersigned Western Development Company having purchased from the Contract and Finance Company (with your approval) the contract for the construction of your railroad from Gilroy, in the county of Santa Clara, to the eastern boundary of the State of California, dated on the first day of May, A. D. 1871, find that by the amalgamation and consolidation of your company with other companies, and the addition of other lines by act of Congress, that you now require the construction of a line by the way of Soledad through the Polonio Pass to intersect the old

line at or near Poso creek, and also a line from Tehachapi junction, via Los Angeles, to a point near Fort Yuma—making about eight hundred and seventy-nine miles of unfinished road that it is necessary to construct within the term required by the laws of the United States and of this State, while the amount left uncompleted of that part of the road included in the contract now held by this company is only about three hundred and twenty-two miles. It is believed that the whole work can be done more economically by one company than it could be by a number of companies, and, being desirous of extending our operations, we propose to surrender the contract purchased from the Contract and Finance Company, and enter into a new contract, substantially in the form herewith marked "A." We believe the terms are more favorable than the work can be done by several contractors or by any other company. We respectfully ask you to consider the subject.

WESTERN DEVELOPMENT COMPANY,

By JOHN MILLER, Secretary.

Whereupon the following resolution was offered by Robert Robinson, and, being duly seconded, was adopted by a unanimous vote:

Approving assignment of contract to W. D. Co.

Whereas, on the first day of May, A. D. 1871, this company entered into a contract with the Contract and Finance Company, a corporation duly organized under the laws of this State, by which said contract the said Contract and Finance Company covenanted and agreed to construct and equip the railroad of this com-

pany from Gilroy, in the county of Santa Clara, to the easterly boundary of the State of California near Fort Mojave, and shown by said contract as spread upon the records of this company; and whereas the said Contract and Finance Company has by an instrument in writing under its corporate seal assigned and transferred said contract to the Western Development Company, a corporation duly incorporated and organized under the laws of the State of California:

Now, therefore, it is resolved that this company consents to and approves of said assignment, and accepts the said Western Development Company as contractor and party to said contract as fully and in the same manner as the said Contract and Finance Company was before said assignment, and entitled to all the rights and privileges of said Contract and Finance Company before said assignment.

A draft of agreement submitted by the Western Development Company was presented, reading as follows:

Agreement with Western Devp. Co.

Articles of agreement made this ——— day of ———, A. D. 1875, between the Southern Pacific Railroad Company, a corporation duly organized under the laws of the State of California, party of the first part, and the Western Development Company, a corporation duly organized under the laws of said State, party of the second part, witnesseth:

Article First.

The said party of the second part hereby covenants and agrees to and with the said party of the first part, its successors and assigns, that it will, in good workmanlike manner, construct, finish, furnish, and complete the railroad and telegraph line of the said party of the first part, upon the routes selected by said party of the first part, beginning at Soledad, in the county of Monterey; thence to the eastern boundary of the State on the Colorado river at or near the "Needles" (less the amount constructed between Poso creek and Sumner station); also between Los Gatos creek and Goshen station; also from the junction at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad near Fort Yuma—all in the State of California, together with the rolling stock, buildings, instruments, and fixtures therefor; that is to say, to construct, furnish, finish, do, and complete all the clearing, grading, excavations, embankments, ditches, drains, masonry, culverts, bridges and trestling, furnish all the ties, timber, rails, iron of all kinds, for bridges and other purposes, all the chairs, fishplates, spikes, frogs and switches; lay and complete all the main line of track, and all the sidetracks, spur tracks and turnouts necessary, usual, and proper for a single track railroad.

Also all necessary and proper buildings and erections for stations, freight and passenger depots, water tanks, turntables, engine houses, work and repair shops, with all the tools, furniture, and implements necessary or proper therefor; also to furnish and place on said railroad all necessary and proper rolling stock, instruments, and

equipments, including locomotives, passenger, box, freight, baggage, platform, dump and, hand cars for the proper and successful working, operating, and repairing of said railroad and telegraph line; such rolling stock to be furnished and delivered as may be required by the said party of the first part, not to exceed the following quantity and proportion, viz.: One locomotive for every five miles of road constructed under this contract; one passenger car for every mile of road; three box and flat cars for every mile of road; the proportion of each to be determined by the said party of the first part. One handcar for every six miles of road. Such number of dump cars as may be required for maintaining the line.

Twenty miles of railroad and telegraph line to be constructed and equipped each year, and an additional twenty miles a year if the same be required by the said party of the first part, until the whole is completed. First twenty miles to be completed on or before the first day of July, A. D. 1875, and the whole to be completed within the time which now is or may hereafter be limited by act of Congress.

Article Second.

And the said party of the second part hereby further covenants and agrees that it will furnish and provide and pay for all the engineer service necessary or requisite for the location and construction of said railroad and its appurtenances, such location and construction to be subject to the approval of the president or chief engineer of said party of the first part, who may direct such changes as they may deem proper; the salary of the chief engineer of the

said railroad company to be paid by the said party of the first part.

The said party of the second part also agrees to pay all the cost and expense of the right of way, and of procuring the same for the portion of said railroad constructed under this contract.

Article Third.

And the said party of the first part hereby covenants and agrees to and with the said party of the second part, its successors and assigns, that it will pay for the construction and equipment of said railroad and telegraph line as aforesaid the sum of thirty-one millions six hundred and fifty-four thousand dollars in first mortgage bonds of the Southern Pacific Railroad Company, and thirty-one millions six hundred and fifty-four thousand dollars of the capital stock of said company not heretofore subscribed for or issued; and the said party of the second part shall subscribe for all said capital stock as aforesaid, and shall receive certificates of stock and the bonds of said company therefor pro rata as the construction of the railroad and telegraph line progresses and is accepted by the said party of the first part in sections of twenty miles each.

Article Fourth.

And the said party of the first part hereby further covenants and agrees to transport and convey over its

railroads, free of charge, all agents, laborers, and employees, and all provisions, tools, iron, and other materials, and all other property employed or used, or to be employed or used, in and about the construction of said railroad and telegraph line, and their appurtenances, by or for the said party of the second part.

Article Fifth.

And it is further covenanted and agreed that this contract, or any part thereof, shall not be assigned or transferred by said party of the second part without the written consent of the said party of the first part being first had and obtained, and neither the said party of the second part nor any assignee or subcontractor, or any employer, laborer, or any person or corporation furnishing any material, or performing any labor or service, upon the said railroad or telegraph line, or the equipments, fixtures or appurtenances, or any part thereof, shall have, hold, or enforce any lien, incumbrance or claim against or upon the said party of the first part, their successors or assigns, or their railroad or telegraph line or said equipments, fixtures, or appurtenances, or any part thereof, or any property of any kind, of said parties of the first part, or any of the said work contracted to be done herein either under the laws of the State of California now in force or which may hereafter be enacted or in any other way whatsoever.

Article Sixth.

And it is hereby further agreed that should the said party of the first part at any time become dissatisfied with the manner of the prosecution of the work by the said party of the second part, and if the said party of the second part shall fail, neglect or refuse, when requested, to remove the cause of such dissatisfaction, or to prosecute said work as required by said party of the first part, or to fully observe, perform, and execute its agreements as herein set forth, then and in such case the said party of the first part shall have the right to take possession of all the said work, whether finished or unfinished, as also of all the locomotives, cars, and rolling stock, rails, ties, and all other railroad material, all the tools, horses, carts, wagons, provisions, material and machinery of all kinds and in the construction of said railroad or telegraph line or purchased for that purpose, and may go on and complete the said road and telegraph line at the expense of the said party of the second part, the profit or loss as the case may be, to be received or sustained by the said party of the second part.

Article Seventh.

And it is hereby further stipulated and agreed that no stockholder of the said Southern Pacific Railroad Company shall be individually or personally liable or bound by the terms of this agreement, beyond or exceeding the actual amount of stock of said company held by him at the date of the said agreement.

In testimony whereof, the said parties have caused these presents to be signed by the president and secretary

of the party of the first part, and the secretary of the party of the second part, and their respective corporate seals to be hereto affixed the day and year aforesaid as the act and deed of said companies.

SOUTHERN PACIFIC RAILROAD COMPANY,

[Seal] By , President.

Secretary.

WESTERN DEVELOPMENT COMPANY,

[Seal] By , Secretary.

Whereupon E. H. Miller, Jr., offered the following resolution, which being duly seconded was adopted by a unanimous vote,

Resolution accepting proposition of W. D. Compy.

Resolved, that this company do accept the proposition of the Western Development Company to construct, complete, and equip so much of the road and telegraph line as is mentioned in the form of contract submitted, and that the president and secretary are hereby ordered and directed to subscribe their names to the said contract and affix the corporate seal thereto as the act and deed of this company.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion the meeting adjourned.

[Signed] J. L. WILLCUTT,

Secty.

Directors' Meeting.

August 27th, 1875.

A meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Friday, August 27th, A. D. 1875, at 3 o'clock P. M., pursuant to the call of the president.

Present: Directors Chas. Crocker, David D. Colton, Robert Robinson, E. H. Miller, Jr., S. T. Gage, N. T. Smith, and J. L. Willcutt, President Chas. Crocker presiding.

The following resolution was offered by S. T. Gage, and duly seconded and adopted by a unanimous vote:

Resolved, that this company enter into a contract with Harvey S. Brown, in the following words and figures, to wit:

Agreement with Harvey S. Brown.

"Articles of agreement made and entered into this- -day of August, A. D. 1875, by and between the Southern Pacific Railroad Company, party of the first part, and Harvey S. Brown, party of the second part, witnesseth: That the party of the first part, in consideration of the sum of one dollar to it in hand paid, contracts and agrees to quitclaim and release to the said Harvey S. Brown, party of the second part and his assigns, all of its interest in and to the Rancho of the Sobrante of San Jacinto, as patented by the Government of the United States and situated in township three (3) south, ranges five (5) and six (6) west, and township four (4) south, and ranges four (4), five (5) and

six (6) west, San Bernardino base and meridian of United States surveys, being the same rancho upon which are situated the Tin Mines of Temescal, and situated in the county of San Bernardino, State of California, upon the payment by said Harvey S. Brown, to the said party of the first part, in gold coin of the sum of sixty-one thousand dollars, on or before the ninth day of March, 1876. It being understood by both parties that the United States has patented said land to parties, other than either of the parties hereto.

"And it is hereby expressly agreed and understood that in the event of a failure by said Harvey S. Brown, or his assigns to make the payments herein provided and stipulated, on or before the said 9th day of March, 1876, then this agreement ceases and determines, and becomes utterly void and of no effect.

"In witness whereof, the said party of the first part has caused these presents to be signed by its president and secretary, and affixed its corporate seal thereto, as the act and deed of said corporation, and the said party of the second part has signed and sealed the same this day and date first above written.

SOUTHERN PACIFIC RAILROAD COMPANY.

[Seal] By ————, President.

————, Secretary."

And that the president and secretary be and they are hereby directed to sign the same and affix the corporate seal of the company thereto as the act and deed of this company.

The following preamble and resolution was offered by N. T. Smith and adopted by a unanimous vote:

> Whereas, on the 9th day of March A. D. 1870, Leland Stanford, C. P. Huntington, Mark Hopkins, Chas. Crocker, and E. B. Crocker, made a contract with Lloyd Tevis for the benefit of the Southern Pacific Railroad Company; and
>
> Whereas, on the 2nd day of November, A. D. 1872, this company ratified and assumed said contract; and
>
> Whereas, the said Lloyd Tevis has fully performed and completed said contract on his part; and
>
> Whereas, the said Leland Stanford, C. P. Huntington, Mark Hopkins, and Chas. Crocker did, on the 3rd day of August, A. D. 1875, pay to said Lloyd Tevis, one hundred and seventy-five first mortgage bonds of this company of the denomination of $1,000 each, in fulfillment of said contract on the part of this company—now, therefore, be it

To deliver S. H. H. & C. $175,000 in bonds ac. Lloyd Tevis.

Resolved, that the treasurer of this company be, and is hereby, authorized to deliver to said Stanford, Huntington, Hopkins and Crocker one hundred and seventy-five first mortgage bonds of this company of one thoudred and seventy-five bonds of the county of sand dollars each, or in lieu thereof one hun- Los Angeles of $1,000 each, in full satisfaction of said contract on the part of this company, and to accept and file the receipt of the said Tevis as a voucher for such payment.

On motion of David D. Colton the following preamble and resolution was unanimously adopted:

Whereas, by the articles of association, amalgamation and consolidation between the Southern Pacific Railroad Company and the Los Angeles and San Pedro Railroad Company into this company, made and executed on the 17th day of December, 1874, it was provided among other matters and things that the stockholders of said companies should severally receive the same number of shares of the capital stock of this company which they held of the capital stock of said companies; and

Whereas, at the date of said consolidation, the capital stock of said Los Angeles and San Pedro Railroad Company consisted of five hundred thousand dollars divided into five thou-

sand shares of one hundred dollars each; and

Whereas, 2,740 shares of the capital stock of said last-named company, at the date of said consolidation, was owned and held by Leland Stanford, Collis P. Huntington, Charles Crocker and Mark Hopkins, in common; and

Whereas, the railroad and appurtenances of said last-named company were out of repair and required a large expenditure of money to improve and repair the same; and

Whereas, at the instance and request of said company, the said Stanford, Huntington, Crocker and Hopkins did make said improvements and repairs at their own cost and charge and therein did expend large sums of money, and upon the like instance and request did expend other large sums of money in paying off and satisfying the indebtedness of said company; and

Whereas, the said Stanford, Huntington, Crocker and Hopkins are the owners and holders of the bonded indebtedness of the said Los Angeles and San Pedro Railroad Company, which existed at the time of said consolidation to the amount of three hundred thousand dollars in six hundred bonds for the sum of five hundred dollars each, bearing ten per cent interest, which bonds it has been heretofore deemed and considered advisable to call in and cancel and to issue in lieu thereof and deliver

to the holders thereof three hundred of the first mortgage bonds of this company, for the sum of one thousand dollars each, bearing six per cent interest;

Now, therefore, in consideration of the premises, it is ordered:

To deliver 2,740 shares new stock to S. H. H. & C.

1st. That 2,740 shares of the capital stock of this company be issued in the usual form and delivered to said Stanford, Huntington, Crocker and Hopkins pursuant to the aforesaid condition of said articles of consolidation in place of the stock so held as aforesaid by them in the said Los Angeles and San Pedro Railroad Company.

To pay $500,000 in bonds to S. H. H. & C. in in payment of expenditures on ac. L. A. & S. P. R. R. Co.

2d. That first mortgage bonds of this company, for the sum of one thousand dollars each, to the number of five hundred, be delivered to said Stanford, Huntington, Crocker, and Hopkins in payment and satisfaction of their said claim for moneys expended by them in making the aforesaid repairs and improvements, and in paying off and satisfying the aforesaid indebtedness of said Los Angeles and San Pedro Railroad Company, and that the usual vouchers be taken therefor; and

To exchange

3d. That first mortgage bonds of this company for the sum of one thousand dollars each, to the number of three hundred, be delivered to said Stanford, Huntington, Crocker and Hopkins in exchange for the aforesaid six

bonds of S. P. R. R. Co. for bonds of L. A. & S. P. R. R. to amount of 300,000

hundred bonds of said Los Angeles and San Pedro Railroad Company so as aforesaid held by them upon the surrender thereof, and when said last-named bonds shall have been so surrendered that they be canceled by defacing the seal of said company, punching the signatures of the president and secretary and drawing a red line through each of the coupons annexed thereto.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

September 14th, 1875.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Tuesday, September 14th, A. D. 1875, at 2 o'clock P. M. in pursuance of the by-laws.

Present: Directors Charles Crocker, David D. Colton, Robert Robinson, E. H. Miller, Jr., and J. L. Willcutt, President Charles Crocker presiding as president of the board.

Absent: Directors N. T. Smith and S. T. Gage.

* * * * * * * * *

The following resolution was offered by E. H. Miller, Jr., and on motion duly seconded, was adopted by a unanimous vote:

Resolution adopting line of road Spadra to San Gorgonio Pass, 50 miles. Map "BB."

Resolved, that the line of railroad as it has been surveyed and laid out on map marked "BB" and described as follows: Commencing at a point in the northeast quarter (N. E. ¼) of section twenty-seven (27), township one (1) south, range nine (9) west, San Bernardino base and meridian, and running thence in a southeasterly direction to a point in the southwest quarter (S. W. ¼) of section four (4), township three (3) south, range one (1) west, San Bernardino base and meridian, being the map and profile of section No. 2 of the Southern Pacific Railroad and telegraph line authorized by the twenty-third section of the Texas Pacific Railroad Act, approved March 3d, 1871, be and the same is hereby adopted as the route of said railroad between the points named.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secty.

Directors' Meeting.

December 2nd, 1875.

A special meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Thursday, December 2nd, A. D. 1875, at 2 o'clock P. M., pursuant to the call of the vice-president, in the absence of the president.

Present: Directors David D. Colton, E. H. Miller, Jr., S. T. Gage, N. T. Smith, and J. L. Willcutt, Vice-president David D. Colton presiding.

Absent: Directors Chas. Crocker and Robert Robinson.

* * * * * * * * *

The following preamble and resolutions, on motion of E. H. Miller, Jr., were unanimously adopted:

Resolution to undertake construction of Texas Pacific Railroad.

Whereas, this company has constructed over five hundred miles of its road from the city of San Francisco to its proposed junction with the Texas Pacific Railroad at or near the Colorado river, in the southeastern part of the State, leaving only two hundred miles to be completed, upon which the heaviest work is nearly finished.

And whereas, this company expects to complete its road to the Colorado river by the first of July, 1876;

And whereas, the eastern portion of the road will be of little value to the company, and of little convenience to the public so long as it remains without a connecting road running to the east on the line of the so-called Texas Pacific Railroad;

And whereas, it is of vital importance to the company to secure as speedily as possible a through railroad connection with the commercial centers of the east;

And whereas, the Texas Pacific Railroad Company has failed to comply with the condi-

tions imposed upon it by an act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March 3d, 1871; now, therefore,

Resolved, 1st. That this company, if so authorized and empowered by Congress, will undertake the construction and equipment of the entire railroad and telegraph line provided for in said act lying to the east of the boundary line of the State of California, or to construct the same to a point of connection with said Texas Pacific Railroad Company, upon the same considerations, terms, conditions, restrictions, immunities, powers, rights and privileges, which, by said act were granted to and imposed upon said Texas Pacific Railroad Company, and will agree to complete the same within five years after the passage of an act of Congress, vesting in it all the grants, powers, rights, privileges, and immunities, and imposing upon it all the conditions, limitations, and restrictions respectively vested in and imposed upon said Texas Pacific Railroad Company by said act, and will ask of Congress no other or further aid.

Resolved, 2d. That C. P. Huntington be and hereby is authorized and empowered on behalf of this company to submit the foregoing proposition to Congress, and urge its acceptance.

Resolved, 3d. That a copy of these resolutions under the seal of the company, and signed by the vice-president, the president being absent, and secretary be forwarded to said Huntington.

* * * * * * * * *

[Signed] J. L. WILLCUTT,
Secty.

Directors' Meeting.

March 28th, 1876.

A special meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Tuesday, March 28, 1876, at 11 o'clock A. M., pursuant to the call of the president.

Present: Directors Charles Crocker, David D. Colton, Robert Robinson, E. H. Miller, Jr., N. T. Smith, and J. L. Willcutt; Charles Crocker presiding as president of the board.

Absent: Director S. T. Gage.

The following resolution was offered by David D. Colton and adopted by a unanimous vote:

Resolution adopting line of road 80th to 100th mile south from Goshen. Map "E."

Resolved, that the line of the railroad as it has been surveyed and laid out on map marked "F" and described as follows:

Commencing at a point at the end of the eightieth (80th) mile on the line of the said railroad, south from the intersection of the Southern Pacific Railroad with the San Joaquin Valley Branch of the Central Pacific Rail-

road (said point of commencement being in the northeast quarter (N. E. ¼) of section five (5), township thirty (30) south, range twenty-nine (29) east, Mount Diablo base and meridian); running thence in a southeasterly direction and ending at the termination of the twentieth (20th) mile therefrom in the southeast quarter (S. E. ¼) of section thirty-three (33), township thirty (30) south, range thirty-one (31) east, Mount Diablo base and meridian—be and the same is hereby adopted as the route of said railroad between the points named.

The following resolution was offered by E. H. Miller, Jr., and adopted by a unanimous vote:

Resolution adopting line of road San Gorgonio Pass to 1st Indn. Wells. Map "CC."

Resolved, that the line of the railroad as it has been surveyed and laid out on map marked "CC" and described as follows:

Commencing at a point in the southwest quarter (S. W. ¼) of section four (4), township three (3) south, range one (1) west, San Bernardino base and meridian, and running thence in a southeasterly direction fifty (50) miles to a point in the southwest quarter (S. W. ¼) of section twenty-four (24), township (5) south, range seven (7) east, San Bernardino base and meridian, be and the same is hereby adopted as the route of said railroad between the points named.

* * * * * * * * *

The following resolution was offered by David D. Colton and adopted by a unanimous vote:

Resolution to pay W. D. Co. for road.

Whereas, the Western Development Company has completed 140 miles under its contract of the date of February 2d, 1875, for the construction of the Southern Pacific Railroad, and in accordance with said contract is entitled to receive from this company five million and forty thousand dollars in the first mortgage bonds of the company, and also five million and forty thousand dollars in full paid shares of its capital stock as payment therefor.

Therefore, resolved, that the said 140 miles of railroad are hereby accepted and the president and secretary are hereby authorized and directed to issue to said Western Development Company the said bonds and stock in accordance with said contract, taking a proper voucher therefor on account.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secty.

Directors' Meeting.

October 11th, 1876.

A meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Wednesday, the 11th day of October, A. D. 1876, at one o'clock P. M. pursuant to the by-laws.

Present: Directors David D. Colton, E. H. Miller, Jr., H. M. Newhall, N. T. Smith, and J. L. Willcutt, vice president David D. Colton presiding.

Absent: Directors Chas. Crocker and Robert Robinson.

As to leasing road to C. P. R. R.

The vice-president stated that an understanding had been had between the officers of this company and of the Central Pacific Railroad Company for the operating of all that portion of the Southern Pacific Railroad south of Goshen upon the same basis as for that portion heretofore operated by it, viz: $250 net per mile per month, and that an agreement was being prepared to date from September 1st, which would be presented at a future meeting for the action of the board.

The following resolution was offered by J. L. Willcutt, and adopted by a unanimous vote:

Resolution adopting line of road as per maps. Map "G."

Resolved, that the line of the railroad as it has been surveyed and laid out on maps described as follows:

Commencing at Goshen at the initial point of section No. three (3) of the Southern Pacific

Goshen to 20 miles west.

Railroad (said point of commencement being in the northwest quarter (N. W. ¼) of section nineteen (19), township eighteen (18) south, range twenty-four (24) east, Mount Diablo base and meridian); running thence in a westerly direction, and ending at the termination of the twentieth (20th) mile therefrom in the northeast quarter (N. E. ¼) of section two (2), township nineteen (19) south, range twenty (20) east, Mount Diablo base and meridian.

Map "H" to 40th mile f'm Goshen.

Commencing at the end of section number eight of the Southern Pacific Railroad (said point of commencement being in the northeast quarter (N. E. ¼) of section two (2), township nineteen (19) south, range twenty (20) east, Mount Diablo base and meridian); running thence in a southwesterly direction and ending at the termination of the twentieth (20) mile therefrom in the northwest quarter (N. W. ¼) of section eleven (11), township twenty (20) south, range seventeen (17) east, Mount Diablo base and meridian.

Map "I," 100th to 120th mile southerly f'm Goshen.

Commencing at the end of section No. seven (7) of said railroad (map "F") at the end of the one-hundredth (100) mile on the line of the said railroad, south from the intersection of the Southern Pacific Railroad with the San Joaquin Valley Branch of the Central Pacific Railroad (said point of commencement being in the southeast quarter (S. E. ¼) of section thirty-

three (33), township thirty (30) south, range thirty-one (31) east, Mount Diablo base and meridian); running thence in a southeasterly direction and ending at the termination of the twentieth (20) mile therefrom in the northeast quarter (N. E. ¼) of section nineteen (19), township thirty-two (32) south, range thirty-three (33) east, Mount Diablo base and meridian.

Map "J," "I," 120th to 140th mile southerly from Goshen.

Commencing at the end of section number ten of said railroad as delineated on map "I," at the end of the one hundred and twentieth (120th) mile on the line of the said railroad south from the intersection of the Southern Pacific Railroad with the San Joaquin Valley Branch of the Central Pacific Railroad (said point of commencement being in the northeast quarter (N. E. ¼) of section nineteen, township thirty-two (32) south, range thirty-three (33) east, Mount Diablo base and meridian; running thence in a southeasterly direction, and ending at the termination of the twenty-first and sixty-six one-hundredth (21 66.100) mile therefrom in the northeast quarter (N. E. ¼) of section seventeen (17), township eleven (11) north, range twelve (12) west, San Bernardino base and meridian.

Map "DD" from San Fernando northerly to a point

Commencing at the initial point of section number one (1) of said railroad, as delineated on map "AA," said point being in the northwest quarter (N. W. ¼) of section three (3),

140 miles southerly from Goshen.

township two (2) north, range fifteen (15) west, San Bernardino base and meridian, running thence northerly and ending at the termination of the seventy-eighth (78) and fifty-nine one-hundredth (78.59-100) mile therefrom at the terminal point of section number eleven (11) of the Southern Pacific Railroad authorized by the eighteenth section of the Atlantic and Pacific Railroad Act approved July 27, 1866, and amendments thereto, as delineated on map "J" of said railroad, said point being in the northeast quarter (N. E. ¼) of section seventeen (17), township eleven (11) north, range twelve (12) west, San Bernardino base and meridian.

be and the same is hereby adopted as the route of said railroad between the several points named.

A communication was received from the Western Development Company reading as follows:

San Francisco, October 6th, 1876.

Communication from W. D. Co. as to completion of 246.60 m. road.

To the Honorable Board of Directors Southern Pacific Railroad.

Gentlemen: Enclosed I hand you Chief Engineer Gray's estimate of completed road on the W. D. Co.'s contract with your company, and would respectfully request that the bonds and stock, due for the same, be issued to this company at your earliest convenience.

The statement of our account is as follows, viz:

Total amount of road built in miles		246.60
For which we are entitled to in bonds		$8,877,600
do	in stock	8,877,600
		$17,755,200
Have received for 140 miles road built		
in bonds	$5,040,000	
in stock	5,040,000	10,080,000
Balance due for 106.60 miles,		
bonds and stock,		$7,675,200

Your respectfully,

F. S. DOUTY,

Prest.

San Francisco, July 31, 1876.

President Western Development Company.

Sir: I submit the following estimate for work done under your contract to grade and equip the railroad of this Company:

Grading and equipping road from Sumner to end of section No. 6, Sta. 11,935.....	6.35	miles.
Grading and equipping road from Sumner to end of section No. 7, Sta. 13,008 x 12.9-10...20.	"	
Grading and equipping road from Sumner to end of section No. 8, Sta. 14,045 x 70.3-10...20.	"	
Grading and equipping road from Sumner to end of section No. 9, Sta. 15,702 x 39.6-10...20.	"	
Grading and equipping road from Sumner from section No. 9, section No. 1 marked "AA", 1st division.....80.25	"	
Grading and equipping road from Spadra to San Gorgonio, 2d division.....50.	"	
Grading and equipping road from San Gorgonio to Indian Wells, 3d division.....50.	"	

Total miles,	246.60
Deduct estimate March 18, 1876,.....140.	
Total miles,	106.60

Respectfully submitted,

GEO. E. GRAY,
Chief Engineer.

On motion of E. H. Miller, Jr., the communication was received and ordered to be placed on file.

The following resolution was offered by E. H. Miller, Jr., and beng duly seconded was adopted by a unanimous vote:

Resolution to pay W. D. Co. for road.

Whereas, the Western Development Company has completed one hundred and six and 60-100 (106.60-100) miles road and telegraph line under its contract of February 2d, 1875, and in accordance with said contract is entitled to receive as payment therefor seven million six hundred and seventy-five thousand two hundred dollars ($7,675,000) in the stock and bonds of this Company (one-half each); therefore, be it

Resolved, that the said 106.60-100 miles of railroad be and are hereby accepted, and the president and secretary are hereby authorized and instructed to issue to said Western Development Company the said stock and bonds in accordance with said contract, taking a proper voucher therefor.

W. D. Co. Bills for transportation ordered paid.

Bills were presented for $89,309.71 and $655.00 from the Western Development Company, being amount paid to Central Pacific Railroad Company for transportation of men engaged on construction of road south of Goshen to August 31st, 1876, which on motion of E. H. Miller, Jr., duly seconded, were ordered to be paid and voucher filed therefor.

No further business appearing before the Board, and the foregoing minutes having been read and approved, on motion duly seconded the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secy.

Directors' Meeting.

February 7th, 1877.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the company's office on Wednesday, February 7, A. D. 1877, at 1 o'clock P. M., pursuant to the by-laws.

Present: Directors Chas. Crocker, David D. Colton, Robert Robinson, E. H. Miller, Jr., N. T. Smith, H. M. Newhall, and J. L. Willcutt. Charles Crocker presiding as president of the board.

A communication was presented from the Western Development Company reading as follows:

Communication from W. D. Co. as to completion of 40 m. road.

San Francisco, February 6th, 1877.

To the President and Board of Directors,
Southern Pacific R. Rd.

Gentlemen: Enclosed I hand you Chief Engineer Gray's report, referring in detail to the completion of that portion of your road lying between Goshen and Huron, comprising section eight and nine, of twenty miles each, and

amounting to forty miles; to which, together with inclosed bill, in favor of W. D. Co., your early attention is respectfully called.

Yours respectfully,

F. S. DOUTY,

Prest.

San Francisco, February 5th, 1877.

President Western Development Compy,

Dear Sir: I have to report the completion under your contract with the Southern Pacific Railroad Company, forty miles of railroad, commencing at Goshen (Station O), thence to Huron (Station 2,110 x 13½ feet) the last rail of which was laid January 9th, 1877.

Respectfully yours,

GEO. E. GRAY,

Chief Engineer.

S. F., Feby. 6th, 1877.

Southern Pacific Railroad Co., to Western Development Co., Dr.

For construction of road as follows, viz:

Sections 8 and 9 from Goshen west 40 miles @ $72,000 per mile as per contract, $2,880,000 (half bonds and half stock).

On motion of E. H. Miller, Jr., the communication was received and ordered to be placed on file.

The following resolution was offered by David D. Colton and being duly seconded was adopted by a unanimous vote:

Authorizing payment to W. D. Co. for road.

Whereas, the Western Development Company has completed forty miles of railroad and telegraph line under its contract dated dated February 2d, 1875, and by terms of said contract is entitled to receive as payment therefor two million eight hundred and eighty thousand dollars ($2,880,000) in the stock and bonds of this company—one-half each; therefore, be it

Resolved, that the said forty miles of railroad and telegraph line be, and the same are hereby, accepted and the president and secretary are hereby authorized and intrusted to issue to said Western Development Company the said stock and bonds in accordance with the terms of said contract, taking a proper receipt therefor.

* * * * * * * * *

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

June 8th, 1887.

A special meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the Company on Friday June 8th, A. D. 1877, at 4 o'clock P. M., pursuant to the call of the president.

Present: Directors Charles Crocker, E. H. Miller, Jr., H. M. Newhall, N. T. Smith, and J. L. Willcutt.

Absent: Directors David D. Colton and Robert Robinson.

The president stated the object of the meeting whereupon on motion of E. H. Miller, Jr., the following preambles and resolutions were adopted unanimously:

Appointment of H. N. Alexander as attorney for Arizona Territory.

Whereas, on the 7th day of February, 1877, the legislative assembly of the territory of Arizona passed an act whereby certain grants, powers, franchises, and privileges were conferred upon this company, to be exercised, possessed, and enjoyed in said territory upon the condition that this company should appoint some person residing in said territory as its attorney in fact, upon whom service of legal process might be made with the same force and effect as if served personally upon the president or other officer or managing agent of this company.

Now, therefore, resolved, that H. N. Alexander of Yuma, in said territory, be appointed as the attorney in fact of this company, pursuant to the provisions of said act;

Resolved, further, that letters of attorney in due form of law be prepared under the corporate seal of this company, and signed by its president, and countersigned by its secretary, and delivered by the president of the company to said Alexander, with instructions to file the same, or a copy thereof, in the office of the secretary of the territory aforesaid.

The following preamble and resolution was offered by J. L. Willcutt, and on motion duly seconded was adopted by a unanimous vote.

Resolution dating series "D" of bonds.

Whereas, one of the conditions of the mortgage executed by this company on the 1st day of April, A. D. 1875, provides that series "A" of its mortgage bonds shall bear date of April 1st, 1875, and the several succeeding series such dates respectively as the board of directors may direct; therefore, be it

Resolved and ordered, that series "D" of said bonds shall bear the date of October 1st, 1876, and that the first interest coupon thereon shall be due and payable on the 1st day of April, A. D. 1877.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Note.—The power of attorney issued under the foregoing resolution reads as follows:

Copy of power of attorney to H. N. Alexander.

Whereas, on the 7th day of February, 1877, the legislative assembly of the territory of Arizona passed an act, entitled "An act to secure the construction and operation of certain railroad and telegraph lines and to provide for other matters relating thereto, whereby certain franchises, grants, powers, rights, and privileges were conferred upon a corporation therein named, to wit, the Southern Pacific

Railroad Company, upon the express condition that said corporation should appoint, under its corporate seal, an attorney residing in said territory, upon whom process of law might be served with the same force and effect as if served personally upon the president or other officer, or managing agent of said corporation.

Now, therefore, know all men by these presents, that the said Southern Pacific Railroad Company has appointed, and hereby does appoint, H. N. Alexander as its attorney pursuant to said statute, to reside in said territory with full power to receive and accept service of process of law on behalf of said corporation, with the same force and effect as if served personally upon the president or other officer or managing agent of said corporation.

In testimony whereof, said corporation has caused these presents to be signed by its president and countersigned by its secretary, and its corporate seal to be hereunto affixed on this the 8th day of June, 1877.

[Seal] (Sgd.) CHAS. CROCKER,
President S. P. R. R. Co.

(Sgd.) J. L. WILLCUTT,
Secy. S. P. R. R. Co.

Acknowledged before

CHAS. J. TORBERT,
Commissioner for Arizona Territory.

Directors' Meeting.

June 20, 1877.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Wednesday, June 20, A. D. 1877, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Chas. Crocker, David D. Colton, Robert Robinson, E. H. Miller, Jr., H. M. Newhamm, N. T. Smith, and J. L. Willcutt.

The following resolution was offered by N. T. Smith, and being duly seconded, was adopted by a unanimous vote:

Resolution adopting line of road as per maps. Map "EE" Indio to 50 m. southeast.

Resolved, that the line of the railroad as it has been surveyed and laid out on maps described as follows:

Commencing at Indio at the end of section No. three (3) as delineated on map "CC," said point of commencement being in the southwest quarter (S. W. ¼) of section twenty-four (24), township five (5), range seven (7) east, San Bernardino base and meridian, and running thence in a southeasterly direction fifty (50) miles to a point in the southwest quarter (S. W. ¼) of section twenty-five (25), township ten (10) south, range thirteen (13) east, San Bernardino base and meridian.

Map "FF," "EE," from end section 5 to Colorado river, 68.37 m.

Commencing at the end of section No. five (5) as delineated on map "EE," said point of commencement being in the southwest quarter (S. W. ¼) of section twenty-five (25), township ten (10) south, range thirteen (13) east, San Bernardino base and meridian, and running thence in a southeasterly direction sixty-eight 37-100 (68.37-100) miles to a point in the northeast quarter (N. E. ¼) of section thirty-five (35), township sixteen (16) south, range twenty-two (22) east, San Bernardino base and meridian.

be and the same are hereby adopted as the route of said railroad between the points named.

* * * * * * * *

The following resolution was offered by David D. Colton, and being duly seconded, was adopted by a unanimous vote:

Resolution to pay W. D. Co. for 118.31 miles road.

Whereas, the Western Development Company has completed 118.31-100 miles of railroad and telegraph line under its contract of of February 2d, 1875, and in accordance with said contract is entitled to receive as payment therefor ($8,518,320.00) eight million five hundred and eighteen thousand three hundred and twenty dollars in the stock and bonds of this company (one half each); therefore be it

Resolved, that the said 118 31-100 miles of railroad and telegraph line be and are hereby

accepted, and the president and secretary are hereby authorized and instructed to issue to said Western Development Company the said stock and bonds in accordance with said contract, taking a proper voucher therefor.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion, duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

August 8th, 1877.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the company's office on Wednesday, August 8th, A. D. 1877, at 1 o'clock P. M., in pursuance of the by-laws.

Present: Directors Chas. Crocker, David D. Colton, Jerome Madden, N. T. Smith, H. M. Newhall, Chas. Mayne, and J. L. Willcutt.

On motion of David D. Colton the minutes of the last meeting of the board were read and approved.

The president referred to the contract made with the Contract and Finance Company of May 1st, A. D. 1871, for the construction and equipment of this road and the assignment of the same to the Western Development Company. He gave an explanation of the purport and intent of the new contract as understood between the two companies.

Whereupon the following preamble and resolution was offered by H. M. Newhall, and adopted by a unanimous vote:

Resolution to transfer $10,000,000 to construction acct.

Whereas, heretofore, to wit, on the 1st day of May, 1871, this company entered into a contract with a certain corporation known as the Contract and Finance Company, for the construction and equipment of its road and telegraph, then estimated to be seven hundred miles in length, whereby it agreed to pay to said Contract and Finance Company, in consideration of construction and equipment as aforesaid, all of its capital stock not then subscribed for or issued, and all the bonds which it was authorized to issue, to wit, $40,000 per mile, aggregating the sum of $28,000,000—$5,000,000 in stock, and $5,000,000 in bonds to be delivered on the execution of said contract, and the remainder pro rata per mile as the construction progressed. And whereas, said $5,000,000 in stock and said $5,000,000 in bonds was delivered to said Contract and Finance Company as provided in said contract;

And whereas, said stock and bonds were entered in the books of this company as debits against said Contract and Finance Company, and still remain so entered;

And whereas, this company had paid and delivered to said Contract and Finance Com-

pany in bonds including the $5,000,000 aforesaid, the sum of $13,596,000 on account of construction, and $750,000 to the holders of old bonds of the company in redemption thereof, prior to the assignment of said contract as hereinafter stated;

And whereas, afterward, to wit, on the —— day of January, 1875, after a partial performance thereof, said Contract and Finance Company, with the knowledge and consent of this company, assigned said contract to a corporation known as the Western Development Company, upon the condition that said last-named company should perform it to the entire satisfaction of this company for and in consideration of so much of the stock and bonds of this company mentioned in said contract as had not theretofore been paid out and delivered to said Contract and Finance Company, and to other parties in redemption of old bonds of the company as aforesaid;

And whereas, afterward this company, acting under certain laws of Congress and the State of California, amended its articles of incorporation so as to enable it to construct additional lines of road and telegraph provided for in said acts of Congress, aggregating 750 miles or thereabouts, and to issue additional bonds for the construction thereof, and whereas, this company did thereupon author-

ize the issue of bonds to the amount of $46,000,000, $14,346,000 of which were used in the redemption of the bonds which had been issued previously as aforesaid;

And whereas, afterward, to wit, on the 2d day of February, 1875, this company entered into another contract with the Western Development Company for the construction and equipment of its road and telegraph, including the unfinished portions provided for in said contract first aforesaid, as well as the additional road and telegraph provided for in said amended articles of incorporation, whereby this company agreed, for and in consideration of such construction and equipment, to pay and deliver to said Western Development Company $31,654,000 in the stock of the company, and an equal amount in the bonds of the company, making, together with the $14,346,000 paid out as aforesaid, $46,000,000, being the full amount of the bonds authorized to be issued as aforesaid—it being the true intent and meaning of said contracts that said Contract and Finance Company and said Western Development Company should together receive all the bonds of the company in part payment for the construction and equipment of the road and telegraph of the company as provided in said contracts—yet, nevertheless, it appears by the books of the company as

hereinbefore stated that said Contract and Finance Company is indebted to this company to the amount of $5,000,000 in its bonds and an equal amount in its stock contrary to the true intent and meaning of said contracts.

Now, therefore, resolved that the secretary be directed and instructed, and he is hereby instructed and directed to cancel said debits and transfer the same to his construction account, where the same properly belongs.

The following resolution was offered by Chas. Mayne, and on motion duly seconded, was adopted by a unanimous vote:

Amending section 5 of by-laws.

Resolved, that section 5 of the by-laws be amended, by substituting the word "Tuesday" for "Wednesday," the said section then reading as follows:

Directors' meetings.

Section 5. The regular weekly meetings of the board of directors shall be held on Tuesday of each week at one o'clock in the afternoon, at the office of the company without further notice than the operation of this by-law, and four or more of the directors shall constitute a quorum at all meetings for the transaction of business. Special meetings may at any time be called by the president, or any three members of the board, to convene at such time and place as may be appointed, but it shall require a majority of the whole board to adopt any measure.

Quorum special meetings.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

February 12th, 1878.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the company's office on Tuesday, February 12th, A. D. 1878, at 1 o'clock P. M., pursuant to the by-laws.

Present: Directors Chas. Crocker, Chas. Mayne, N. T. Smith, Jerome Madden and J. L. Willcutt. President Chas. Crocker presiding.

Absent: Directors David D. Colton and H. M. Newhall.

The following resolution was offered by Chas. Mayne and adopted by a unanimous vote:

(Texas Pacific R. R.) Resolution as to construction of road east of Colorado river (Amended pp. 312, 313.)

Whereas, this company has constructed its road to its proposed junction with the Texas Pacific Railroad at or near the Colorado river, in the southeastern part of this State;

And whereas, the eastern portion of the road will be of little value to the company and of little convenience to the public so long as it remains without a connecting road running to the east on or near the line of the so-called Texas Pacific Railroad;

And whereas, it is of vital importance to the company to secure as speedily as possible a through railroad connection with the commercial centers of the east;

And whereas, the Texas Pacific Railroad Company has failed to comply with the conditions imposed upon it by an act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March 3d, 1871, and the amendments thereto; now, therefore,

Resolved, 1st. That this company, if so authorized and empowered by Congress, will undertake the construction and equipment of the entire railroad and telegraph line, provided for in said act, lying to the east of the eastern boundary line of the State of California, or to construct the same to a point of connection with said Texas Pacific Railroad Company, upon the same considerations, terms, conditions, restrictions, immunities, powers, rights, and privileges which by said acts were granted to and imposed upon said Texas Pacific Railroad Company, and will agree to complete the same within six years after the passage of an act of Congress, vesting in it all the grants, powers, rights, privileges, and immunities, and imposing upon it all the conditions, limitations, and restrictions respectively

vested in and imposed upon said Texas Pacific Railroad Company by said acts, and will ask of Congress no other or further aid.

Resolved, 2d. That this company will prorate with all eastern lines of transportation on all through traffic between its eastern terminus and any part of the Pacific, which it may reach by its own road, or by any line it may control by lease or otherwise.

Resolved, 3d. That C. P. Huntington be, and he hereby is, authorized and empowered on behalf of this company to submit the foregoing proposition to Congress and urge its acceptance.

Resolved, 4th. That a copy of these resolutions, under the seal of the company and signed by the president and secretary, be forwarded to said Huntington.

The following resolution was offered by Chas. Mayne and adopted by a unanimous vote:

Resolution as to grading Kentucky street.

Whereas, it is proposed to grade Kentucky street, and the crossings thereof, lying between Sierra street and Center street;

And whereas, this company owns property on said street;

Now, therefore, resolved, that this company join in a petition to the board of supervisors of the city *city* and county of San Francisco, asking that said street be graded.

Resolved, further, that Chas. Crocker, president of this company, be, and he is hereby, authorized to sign such petition on behalf of this company, and to attach thereto its corporate seal.

The following resolution was offered by N. T. Smith and adopted by a unanimous vote:

Resolu- to give quitclaim deed to I. M. Hellman.

Resolved, that the president and secretary of the Southern Pacific Railroad Company be authorized and instructed to prepare and execute in behalf of said company a quitclaim deed conveying to Sarah A. Wicks, the party now having the equitable interest in the same, all that certain property conveyed to said company by I. M. Hellman, by deed dated the day of August, A. D. 1873, and acknowledged by him before A. W. Pots, county clerk of Los Angeles county, California, August 20, 1873; said deed being recorded on said 20th day of August, A. D. 1873, at 5 min. past 5 P. M., in Book 25 of Deeds, page 633, in the recorder's office of Los Angeles City, Cala., the land described therein not having been used as a portion of the right of way of said Southern Pacific Railroad, for which it was intended when said deed was executed by said I. M. Hellman.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secy.

Directors' Meeting.

February 21, 1878.

A special meeting of the board of directors of the Southern Pacific Railroad Company was held at the company's office on Thursday, February 21, A. D. 1878, at one o'clock P. M., pursuant to the call of the president.

Present: Directors Chas. Crocker, Charles Mayne, H. M. Newhall, N. T. Smith, Jerome Madden and J. L. Willcutt. President Charles Crocker Presiding.

Absent: Director David D. Colton.

The object of the meeting having been stated by the president, the following resolution was offered by Charles Mayne, and adopted by a unanimous vote.

(Texas Pacific R. R.) to construct road east of Colorado river (2d amendment).

Whereas, this company has constructed its road to its proposed junction with the Texas Pacific Railroad at or near the Colorado river near the southeastern line of this State;

And whereas, the eastern portion of the road will be of little value to the company, and of little convenience to the public, so long as it remains without a connecting road running to the east on or near the line of the so-called Texas Pacific Railroad.

And whereas, it is of vital importance to the company to secure as speedily as possible a through railroad connection with the commercial centers of the east;

And whereas the Texas Pacific Railroad Company has failed to comply with the conditions imposed upon it by an act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and the amendments thereto; now, therefore,

Resolved, 1st. That this company, if so authorized and empowered by Congress, will undertake the construction and equipment of the entire railroad and telegraph line provided for in said act, lying to the east of the eastern boundary line of the State of California, or to construct the same to a point of connection with said Texas Pacific Railroad Company, upon the same considerations, terms, conditions, restrictions, immunities, powers, rights, and privileges, which by said acts were granted to and imposed upon said Texas Pacific Railroad Company, and will agree to complete the same within six years after the passage of an act by Congress, vesting in it all the grants, powers, rights, privileges, and immunities, and imposing upon it all the conditions, limitations and restrictions respectively vested in and imposed upon said Texas Pacific Railroad Company by said acts, and will ask of Congress no other or further aid;

Resolved, 2d. That this company will pro

rate with all eastern lines of transportation on all through traffic between its eastern terminus and any part of the Pacific, which it may reach by its own road, or by any line it may control by lease or otherwise;

Resolved, 3d. Further, and this company hereby agrees that if the foregoing proposition is accepted by the United States, the rates of fare and freightage from the eastern terminus of the proposed road to San Pedro, Santa Monica and San Diego in California may be established and regulated from time to time by Congress;

Resolved, 4th. That C. P. Huntington be, and he hereby, is authorized and empowered on behalf of this company, to submit the foregoing proposition to Congress, and urge its acceptance;

Resolved, 5th. That a copy of these resolutions, under the seal of the company, and signed by the president and secretary, be forwarded to said Huntington.

No further business appearing before the board, and the foregoing minutes having been read and approved, on motion duly seconded the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Special Meeting.

July 31, 1882.

A special meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Monday, July 31, 1882, at half past one o'clock P. M., pursuant to the call of the vice-president.

Present: Directors Chas. F. Crocker, Moses Hopkins, N. T. Smith, W. V. Huntington and J. L. Willcutt. Vice-President Chas. F. Crocker occupying the chair (in the absence of the president).

Absent: Directors Charles Crocker and Charles Mayne.

The meeting was called to order by the vice-president, who stated the object of it to be the acceptance of the first section of road (40 miles) on the Mojave line to the Needles.

* * * * * * * *

The following resolution was offered by Moses Hopkins and adopted by a unanimous vote:

Resolution authorizing payment to P. I. Co. for completed road.

Whereas, the Pacific Improvement Company has completed forty miles of road and telegraph line under its contract of 8th day of February, 1882, and in accordance with said contract is entitled to receive as payment therefor $2,200,000 in the bonds and stock of this company, to wit: $1,000,000 in bonds and $1,200,000 in stock.

Therefore, be it resolved, that the said forty (40) miles of road be, and are hereby, accepted, and the vice-president (in the absence of the president) and the secretary of this company are hereby authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock in accordance with the contract, and taking a proper voucher therefor.

The following resolution was offered by W. V. Huntington and adopted by a unanimous vote:

Resolution authorizing the vice-president to sign 480 bonds.

Resolved, that in the absence from this State of Charles Crocker, the president of this company, Chas. F. Crocker, the vice-president of the company be, and he is hereby, authorized and directed to sign four hundred and eighty (480) of the first mortgage bonds of the company, numbered respectively from 31,521 to 32,000 inclusive, and also the certificates of stock, which the said "Pacific Improvement Company" are entitled to receive, under the foregoing resolution.

No further business appearing, and the foregoing minutes having been read and approved, on motion duly seconded, the meeting adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

September 5, 1882.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company on Tuesday, the 5th day of September, A. D. 1882, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Chas. F. Crocker, Charles Mayne, W. V. Huntington, N. T. Smith, and J. L. Willcutt. Vice-President Chas. F. Crocker, presiding.

Absent: Directors Charles Crocker and Moses Hopkins.

* * * * * * * *

The following resolution was offered by Charles Mayne and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 12 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed twelve (12) miles of road and telegraph line under its contract of 8th day of February, 1882, and in accordance with said contract is entitled to receive as payment therefor, $660,000.00 in the bonds and stock of this company, to wit, $300,000.00 in bonds, and $360,000.00 in stock;

Therefore be it resolved, that the said twelve (12) miles of road be and the same are hereby accepted, and the vice-president (in the absence of the president) and the secretary of

this company are hereby authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract, and taking a proper voucher therefor.

* * * * * * * *

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

October 17, 1882.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco on Tuesday, the 17th day of October, A. D. 1882, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Chas. F. Crocker, Charles Mayne, N. T. Smith, W. V. Huntington, and J. L. Willcutt. Vice-President Chas. F. Crocker, presiding.

Absent: Directors Charles Crocker and Moses Hopkins.

* * * * * * * * *

The vice-president stated that the Pacific Improvement Company had completed eighteen miles more of road on the Mojave line for which a bill had been presented.

Whereupon, the following communications were presented and read by the secretary, and on motion were received and ordered to be placed on file.

* * * * * * * * *

San Francisco, Oct. 13, 1882.

Chief engineer's estimate 18 miles completed road on Mojave line.

President and Secretary Pacific Improvement Co.

Sir: I submit the following estimate for work done under your contract to grade and equip the railroad of this company, viz: Commencing at a point (52) fifty-two miles eastward of Mojave on the main line—Station 2746*33.8-10 to Station 3697* a distance of (18) eighteen miles—or a total distance of (70) miles eastward of Mojave.

The completed work includes all the grading and track equipment, sidings, etc.

Respectfully yours,

(Signed) GEO. E. GRAY,
Chief Engineer.

P. I. Co. bill for 18 miles of road completed on Mojave line.

Southern Pacific Railroad Co., to Pacific Improvement Co., Dr.,

Oct. 13, for completed road as follows:

From Station 3746* 33 8-10 to Station 3697*, distance of 18 miles @

$25,000 in bonds per mile	$450,000
$30,000 in stock per mile	540,000
	$990,000

The following resolution was offered by N. T. Smith and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 18 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed eighteen (18) miles of road and telegraph line under its contract of 8th February, 1882, and in accordance with said contract, is entitled to receive as payment therefor $990,000 in the bonds and stock of this company, to wit, $450,000 in bonds and $540,000 in stock.

Therefore, be it resolved that the said eighteen (18) miles of road be and the same are hereby accepted, and the vice-president (in the absence of the president) and the secretary of this company are hereby authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract, taking a proper voucher therefor.

No further business appearing and the foregoing minutes having been read and approved, on motion duly seconded, the meeting was adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

November 21, 1882.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco on Tuesday, the 21st November, A. D. 1882, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Chas. F. Crocker, Charles Mayne, N. T. Smith, Moses Hopkins, W. V. Huntington, and J. L. Willcutt. Vice-President Chas. F. Crocker presiding.

Absent: Director Charles Crocker.

* * * * * * * * *

The following resolution was offered by Charles Mayne and adopted by a unanimous vote.

Resolution to pay P. I. Co. for 30 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed thirty (30) miles of road and telegraph line, under its contract of 8th day of February, 1882 and in accordance with said contract is entitled to receive as payment therefor, $1,650,000 in the bonds and stock of this company, to wit, $750,000 in bonds and $900,000 in stock;

Therefore, be it resolved that the said thirty (30) miles of road be, and the same are hereby, accepted, and the vice-president (in the absence of the president) and the secretary of this company are hereby authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract, taking a proper voucher therefor.

No further business appearing, and the foregoing minutes having been read and approved, on motion duly seconded, the meeting was adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

December 26, 1882.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco on Tuesday, the 26th day of December, A. D. 1882, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Charles Crocker, Chas. F. Crocker, Charles Mayne, W. V. Huntington, N. T. Smith and J. L. Willcutt. President Charles Crocker presiding.

Absent: Director Moses Hopkins.

* * * * * * * * *

The following resolution was offered by Charles Mayne and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 20 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed twenty miles of road and telegraph line, under its contract of 8th February, 1882, viz: from Station 5307* to 6360*, and in accordance with said contract, is entitled to receive, as payment therefor, $1,100,000 in the bonds and stock of this company, viz: ($500,000) five hundred thousand dollars in bonds and ($600,000) six hundred thousand dollars in stock;

Therefore, be it resolved that the said twenty (20) miles of road be, and the same are hereby, accepted, and the president and secre-

tary of this company be, and they are hereby, authorized and instructed to issue to said Pacific Improvement Company, the said amount of bonds and stock, in accordance with said contract, taking a proper voucher therefor.

* * * * * * * * *

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

January 30, 1883.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco on Tuesday the 30th day of January, A. D. 1883, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Chas. F. Crocker, Moses Hopkins, Charles Mayne, N. T. Smith, W. V. Huntington, and J. L. Willcutt. Vice-president Chas. F. Crocker presiding.

Absent: Director Charles Crocker.

* * * * * * * * *

The following resolution was offered by Charles Mayne and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 20 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed twenty miles of road and telegraph line under its contract of 8th February, 1882, viz: From Station 6360* to Station 6969*, Norton's line, or 6141* Hood's line (surveyed westward), to 5713* Hood's line, and in accordance with said contract, is entitled

to receive as payment therefor, $1,100,000—in the bonds and stock of this company, viz: ($500,000) five hundred thousand dollars in bonds, and ($600,000) six hundred thousand dollars in stock.

Therefore, be it resolved that the said twenty (20) miles of road be, and the same are hereby, accepted, and the president and secretary of this company be, and they are hereby, authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract—taking a proper voucher therefor.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

February 20, 1883.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco on Tuesday, the 20th day of February, A. D. 1883, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Charles Crocker, W. V. Huntington, Chas. F. Crocker, N. T. Smith, Charles Mayne and J. L. Willcutt. President Charles Crocker presiding.

Absent: Director Moses Hopkins.

* * * * * * * * *

The following resolution was offered by Charles Mayne and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 20 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed twenty miles of road and telegraph line under its contract of 8th February, 1882, viz: From Station 5713* to 4657*, Hood's numbering, and in accordance with said contract, is entitled to receive, as payment therefor, ($1,100,000) one million one hundred thousand dollars in the bonds and stock of this company, viz: ($500,000) five hundred thousand dollars in bonds, and ($600,000) six hundred thousand dollars in stock;

Therefore, be it resolved that the said twenty (20) miles of road be, and the same are hereby, accepted, and the president and secretary of this company be, and they are hereby, authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract—taking a proper voucher therefor.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

February 27, 1883.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco on Tuesday, the 27th day of February, A. D. 1883, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Charles Crocker, Chas. F. Crocker, W. V. Huntington, N. T. Smith, Charles Mayne, and J. L. Willcutt. President Charles Crocker presiding.

Absent: Director Moses Hopkins.

* * * * * * * * *

The following resolution was offered by Charles Mayne and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 20 miles of road completed on Mojave line.

Whereas, the Pacific Improvement Company has completed twenty miles of road and telegraph line under its contract of 8th February, 1882, viz: From Station 4657* to Station 3601* Hood's line (surveyed westward), and in accordance with said contract is entitled to receive as payment therefor ($1,100,000) one million one hundred thousand dollars in the bonds and stock of this company, viz: ($500.000) five hundred thousand dollars in bonds, and ($600,000) six hundred thousand dollars in stock;

Therefore, be it resolved that the said twenty (20) miles of road be, and the same are hereby, accepted, and the president and secretary of this company be, and they are hereby, authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract—taking a proper voucher therefor.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

March 6, 1883.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco, on Tuesday, the 6th day of March, A. D. 1883, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Charles Crocker, Chas. F. Crocker, W. V. Huntington, N. T. Smith, Charles Mayne, and J. L. Willcutt. President Charles Crocker, presiding.

Absent: Director Moses Hopkins.

* * * * * * * * *

The following resolution was offered by Chas F. Crocker and adopted by a unanimous vote:

Resolution to pay P. I. Co. for 20 miles of road completed Mojave line.

Whereas, the Pacific Improvement Company has completed twenty miles of road and telegraph line under its contract of 8th February, 1882, viz: from Station 3601* to Station 2545* Hood's line (surveyed westward), and in accordance with said contract, is entitled to receive, as payment therefor ($1,100,000) one million one hundred thousand dollars in the bonds and stock of this company, viz: ($500,000) five hundred thousand dollars in bonds, and ($600,000) six hundred thousand dollars in stock;

Therefore, be it resolved that the said twenty (20) miles of road be, and the same are

hereby, accepted, and the president and secretary of this company be, and they are hereby, authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract—taking a proper voucher therefor.

No further business appearing, and the foregoing minutes having been read and approved, on motion duly seconded, the meeting was adjourned.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

March 20, 1883.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company in the city of San Francisco, on Tuesday, the 20th day or March, A. D. 1883, at one o'clock P. M., in pursuance of the by-laws.

Present: Directors Charles Crocker, Chas. F. Crocker, W. V. Huntington, N. T. Smith, Charles Mayne, and J. L. Willcutt. President Charles Crocker, presiding.

Absent: Director Moses Hopkins.

* * * * * * * * *

The following resolution was offered by Chas. F. Crocker and adopted by a unanimous vote:

Resolution to

Whereas, the Pacific Improvement Company has completed twenty miles of road and

pay P. I. Co. for 20 miles of road completed on Mojave line.

telegraph line under its contract of 8th February, 1882, viz, from Station 2545* to Station 1489* Hood's line (surveyed westward), and in accordance with said contract, is entitled to receive, as payment therefor, ($1,100,000) one million one hundred thousand dollars in the bonds and stock of this company, viz: ($500,000) five hundred thousand dollars in bonds, and ($600,000) six hundred thousand dollars in stock;

Therefore, be it resolved that the said twenty (20) miles of road be, and the same are hereby, accepted, and the president and secretary of this company be, and they are hereby, authorized and instructed to issue to said Pacific Improvement Company the said amount of bonds and stock, in accordance with said contract—taking a proper voucher therefor.

(Signed) J. L. WILLCUTT,
Secretary.

Directors' Meeting.

April 24, 1883.

A regular meeting of the board of directors of the Southern Pacific Railroad Company was held at the office of the company, on Tuesday, the 24th day of April, A. D. 1883, at one o'clock P. M., pursuant to its by-laws.

Present: Directors Charles Crocker, Chas. F. Crocker, Charles Mayne, W. V. Huntington, N. T. Smith, and J. L. Willcutt. President Charles Crocker, presiding.

Absent: Director Moses Hopkins.

* * * * * * * * *

On motion of N. T. Smith, seconded by Charles Mayne, the following resolution was adopted by a unanimous vote:

Resolution to pay P. I. Co. for same.

Whereas, the Pacific Improvement Company has completed the line of road from Mojave to the Colorado river, near the Needles;

And whereas, there is due to the said Pacific Improvement Company under its contract of 8th February, 1882, the sum of ($1,237,885) one million two hundred and thirty-seven thousand, eight hundred and eighty-five dollars for the construction of said road and telegraph line from Station 1489* to Station 300* 79 being to the west bank of theColorado river—a distance of 22 507-1000 miles—and in accordance with said contract it is entitled to receive said sum in bonds and stock of this company, viz: in bonds $562,675.00 (as near as may be) and in stock $675,210.[illegible] (as near as may be);

Therefore, be it resolved that the said 22 507-1000 miles of road be, and the same are hereby, accepted, and the president and secretary of this company be, and they are hereby, authorized and instructed to issue to said

Pacific Improvement Company the amount of $562,000 in bonds, and the amount of 675,200 in stock, in accordance with said contract, taking a proper voucher therefor, and the secretary is further instructed to place the remaining amount of $685.00 to the credit of said Pacific Improvement Company, on open account.

* * * * * * * * * *

(Signed) J. L. WILLCUTT,
Secretary.

I hereby certify that the foregoing 93 pages have been compared by me with the original thereof, and I find them to be a full, true, and correct copy of those portions of the minutes of the board of directors of the S. P. R. R. Co. offered in evidence before me on behalf of the complainants on cross-examination of defendants' witness, J. L. Wilcutt.

San Francisco, Oct. 14, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Exhibit before the Special Examiner "L." Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Mr. REDDING.—Defendants offer in evidence, by reference, in the same manner that we offered yesterday the postmaster general's reports, the report of the auditor of railroad accounts for 1880, officially published as follows: "Annual report of the auditor of railroad accounts made

to the secretary of the interior for the year ending June 30, 1880. Washington Government Printing Office, 1880," for the purpose of showing the *relatings* between the Southern Pacific Railroad Company and the Government of the United States with reference to the accounts and reports rendered by the Southern Pacific Railroad Company to the Government of the United States, in accordance with the instructions of Congress given to the auditor of railroad accounts, and I ask that they be referred to by title only, as it is stipulated that the volume, being an official publication, is before the Court. Is that right, Mr. Call, subject to your objections?

Mr. CALL.—I have no objections to the mode of their being offered, and it may have the same effect as though the volume referred to was filed in the case as an exhibit.

I object to it upon the following grounds: As incompetent, immaterial and irrelevant, and not the best evidence; and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3, 1871, by the terms and conditions of said act; and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company, and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the South-

ern District of California as shown by the records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked Master's Exhibits 1, 2 and 3, and Defendants' Exhibits before the Special Examiner Nos. 88 and 89, has surrendered to the United States all interest in these lands, and did thereby surrender to the United States, in each case of consolidation, all right to earn such lands by constructing a railroad, and upon the further ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company; and upon the further ground that the records of the interior department and of the United States landoffice at Los Angeles and the United States landoffice at San Francisco and the records of the office of the secretary of State for California, and the public laws of the United States and of California show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands.

Mr. REDDING.—You do not object to the incompetency of the evidence, as not being the best evidence of the facts therein stated, do you?

Mr. CALL.—I waive any objection to the mode and manner of offering the document, and consent that it may be made by reference within the same effect as if it was now filed before the special examiner as an exhibit in

the case duly offered, but I do object to it upon the grounds stated.

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1881, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1881. Washington Government Printing Office, 1881."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1882, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1882. Washington Government Printing Office, 1882."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1883, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1883. Washington, Government Printing Office, 1883."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1884, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1884. Washington Government Printing Office, 1884."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1885, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1885. Washington Government Printing Office, 1885."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1886, officially published as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1886. Washington Government Printing Office, 1886."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1887, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1887. Washington Government Printing Office, 1887."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1888, officially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1888. Washington Government Printing Office, 1888."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1889, of-

ficially published, as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1889. Washington Government Printing office, 1889."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1890, officially published as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1890. Washington Government Printing Office, 1890."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1891, officially published as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1891. Washington Government Printing Office, 1891."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the commissioner of railroads for 1892, officially published as follows: "Annual report of the commissioner of railroads made to the secretary of the interior for the year ending June 30, 1892. Washington Government Printing Office, 1892."

(Same objection.)

Mr. REDDING.—These are all offered by reference under Mr. Call's stipulation, as official publications from the Government Printing Office, and for the purpose of showing the receipt of the reports of the Southern Pa-

cific Railroad Company sent to the commissioner of railroads, and set forth by him in the said annual reports to Congress and to the various officers of the Government.

Mr. CALL.—All under the same objections.

Testimony of CHARLES J. WILDER.

CHARLES J. WILDER, called as a witness on behalf of the defendants, being duly sworn, testified as follows:

Direct Examination.

Mr. REDDING.—Q. What is your present occupation?

A. I am freight auditor of the Southern Pacific Company.

Q. How long have you occupied that position?

A. Since the company came into existence.

Q. In 1885; A. In 1885; yes, sir.

Q. As auditor of the Southern Pacific Company do you have anything to do with the freight accounts of the Southern Pacific Railroad Company?

A. Only in so far as they are covered by their relations to the Southern Pacific Company.

Q. Do the accounts for freight transported over the line of the Southern Pacific Railrad Company between Mojave, by the way of Los Angeles, to Fort Yuma, in any way come under your inspection or official action?

A. Yes, sir.

Q. In what way?

A. All the accounts covering freight of any character moved over that line are kept by me, kept in my office.

Q. Has the Southern Pacific Railroad Company through its lessee, the Southern Pacific Company, any relations with the Government of the United States between the points named with reference to the transportation of governmental effects over the line of the Southern Pacific Railroad Company?

(Question objected to by Mr. Call as incompetent, immaterial and irrelevant, and not the best evidence, and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3, 1871, by the terms and conditions of said act; and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States *States* and the United States Circuit Court for the Southern District of California, as shown by records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company, to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked Master's Exhibit 1, 2 and 3. and Defendants' Exhibits before the Special Examiner Nos. 88 and 89, has surrendered to the United States all interest in

these lands, and did thereby surrender to the United States in each case of consolidation all right to earn such lands by constructing a railroad, and upon the further ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company; and upon the further ground that the records of the interior department and of the United States landoffice at Los Angeles and the United States landoffice at San Francisco, and the records of the office of the secretary of State for California and the public laws of the United States and of California show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands.

A. Yes, sir; such freight is being constantly transported.

Q. What is the method of the Government obtaining transportation of freight—I am now speaking of other than postal service, over the line of the Southern Pacific Railroad Company between the points named?

(Same objection.)

A. Freight is presented in exactly the same manner that any freight from a commercial house would be, and is handled and carried through in the same way.

Q. Who presents the freight on behalf of the Government?

(Same objection.)

A. Usually the freight is shipped through the quartermaster's department, and their teamsters present the freight at the warehouse.

Q. Do you know, as a fact, whether the Southern Pacific Railroad Company between the points named holds itself all of the time in readiness to transport the freight of the Government, such as munitions of war, soldiers, etc.?

(Same objection.)

A. It does; through its relations with the Southern Pacific.

Q. Does it do this through its lease with the Southern Pacific Company at present?

(Same objection.)

A. Yes, sir.

Q. Will you state in what manner accounts are made up between the Government of the United States on the one side and the Southern Pacific Railroad Company through its lessee, the Southern Pacific Company, on the other, for Government transportation?

(Same objection.)

A. Accompanying the various shipments of Government freight is a bill of lading, which is an acknowledgment by the railroad company that they have received the freight from the shippers, usually the quartermaster, for transportation to the various points to which it is destined. This bill of lading accompanies the freight through to its destination and is there signed, what is called accomplished, by the consignee, acknowledging that he has received this freight, that the transportation has been performed; these documents are then returned to my office, and I make up an account against the Government in the name of the Southern Pacific Company

for the transportation, and present these bills of lading as the evidence of the transportation having been performed.

Q. How are the accounts for such transportation settled as between the Southern Pacific Company and the Government and afterward between the Southern Pacific Company and the Southern Pacific Railroad Company?

(Same objection.)

A. The account is made in the name of the Southern Pacific Company and presented to the accounting officers of the Government, and is settled the same as any other account should be.

Q. Are the same prices for transportation received by the Southern Pacific Company, as lessee of the Southern Pacific Railroad Company, for transportation of soldiers and governmental effects between the points named over the Southern Pacific Railroad Company as are received for a like service performed for individuals?

(Same objection.)

A. Our accounts are all based on those same rates; yes, sir.

Q. Is it not a fact that in the appropriations by Congress a less rate is allowed for governmental transportation for this particular road?

(Same objection.)

A. I know what you mean, but it is hardly in that shape; that only applies to the army appropriation act; there is in the army appropriation act a clause which says that disbursements of money from that fund shall be not

to exceed 50 per cent of the regular charges; the charge is extended at the same rate, but a portion of that charge is disallowed.

Q. Do you know why that is the case?

(Same objection.)

A. That is one of the conditions in the appropriation act.

Q. Then I understand that the rate made up and charged to the Government is the same rate so far as your office is concerned as would be charged to individuals?

(Same objection.)

A. Certainly.

Q. Do you know how much is allowed by the Government for the Southern Pacific Railroad Company through its lessee, the Southern Pacific Company, and between the points named of that rate?

(Same objection.)

A. 50 per cent of that charge.

Q. Can you produce any settled account between the Government and the Southern Pacific Company, as lessee of the Southern Pacific Railroad Company, for transportation recently performed between the points named?

(Same objection.)

A. I can show you an account for service performed in the months of September, October, and November, 1889, which has been settled, and I can refer you to the date of the settlement and the warrant which was drawn in settlement (producing).

Q. Is this the original?

(Same objection.)

A. Yes, sir.

Q. I understand you now produce an original statement of account for transportation between the United States and the Southern Pacific Company, Pacific System, No. 5,487, on account of the war department for the months of September, October, and November, 1889, for freight, in the sum of $4,089.53, covering transportation, which includes the points named, Tehachapi, by way of Los Angeles to Fort Yuma?

(Same objection.)

A. Yes, sir.

Mr. REDDING.—We offer this in evidence as defendants' Exhibit before the Special Examiner No. 120, and ask that under the stipulation a copy be made of the same and certified by the special examiner, which copy when so made and certified shall stand in lieu of the original.

Mr. CALL.—I have no objections to the special examiner making a copy and certifying to the same. I will object to the introduction of the paper in evidence on the ground that it is incompetent, immaterial, and irrelevant, and not the best evidence; and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3, 1871, by the terms and conditions of said act; and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further

ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the Southern District of California, as shown by the records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked Master's Exhibits 1, 2, and 3, and Defendants' Exhibits before the Special Examiner Nos. 99 and 89, has surrendered to the United States all interest in these lands, and did thereby surrender to the United States, in each case of consolidation, all right to earn such lands by constructing a railroad, and upon the further ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company; and upon the further ground that the records of the interior department and of the United States land-office at Los Angeles and the United States landoffice at San Francisco and the records of the office of the secretary of state for California and the public laws of the United States and of California show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands, and the further objection that the Southern Pacific Company mentioned in the account and referred to by the witness is a different corporation from the Southern Pacific Railroad Company, and that the Southern Pacific Company is not a party to this suit.

Mr. REDDING.—Q. Is this exhibit we have offered the original from which an exact copy was made and forwarded to the war department?

(Same objection.)

A. Yes, sir.

Q. They were compared under your own supervision?

(Same objection.)

A. Yes, sir.

Q. Is this a form similar to those used for other accounts of like nature with the Government?

(Same objection.)

A. Yes, sir.

Q. For how many years has the Southern Pacific Railroad Company performed transportation for the Government between the points named and under similar procedure as herein testified to?

(Same objection.)

A. Ever since the road has been in operation.

Q. Do you know, as a fact, whether the line of the Southern Pacific Railroad Company from Mojave, by the way of Los Angeles, to Fort Yuma, has always been maintained as a first class railroad for governmental transportation?

(Same objection.)

A. So far as I am able to know, not being an expert.

Q. Don't you know, as a fact, that the road has been used all the time for that purpose?

(Same objection.)

A. Yes, sir.

Q. Have not accounts been audited for freight transported for the Government during these years?

(Same objection.)

A. Yes, sir.

Q. Prior to the 50 per cent rate of the charge being allowed what was the percentage allowed?

(Same objection.)

A. The full payment.

Mr. CALL.—Q. When was it changed to 50 per cent?

A. This last Congress; the previous Congress it was 60.

Q. What was it before that?

A. Full payment.

Mr. REDDING.—Q. What is your method of crediting to the Southern Pacific Railroad Company its proportion of these governmental transportation charges?

(Same objection.)

A. They are included in our regular earning statements and apportioned the same as all the other traffic is apportioned over that part of the line.

Q. Do you know, as a fact, whether the Southern Pacific Railroad Company gets its due credit for the governmental transportation between the points?

(Same objection.)

A. Yes, sir.

Q. It does?

(Same objection.)

A. Yes, sir.

Q. Has the Government of the United States recognized the line of the Southern Pacific Railroad Company

between the points named as one of its means of governmental transportation during all these years?

(Question objected to by Mr. Call as incompetent, immaterial, and irrelevant and not the best evidence; and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3, 1871, by the terms and conditions of said act; and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the Southern District of California, as shown by the records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked Master's Exhibits 1, 2, and 3, and Defendants' Exhibits before the Special Examiner Nos. 88 and 89, has surrendered to the United States all interest in these lands, and did thereby surrender to the United States, in each case of consolidation, all right to earn such lands by constructing a railroad, and upon the further ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad

Company; and upon the further ground that the records of the interior department and of the United States land-office at Los Angeles, and the United States landoffice at San Francisco and the records of the office of the secretary of state of California, and the public laws of the United States and of California show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands, and the further objection that the Southern Pacific Company mentioned in the account and referred to by the witness is a different corporation from the Southern Pacific Railroad Company, and that the Southern Pacific Company is not a party to this suit, and the further objection that the testimony sought calls for a conclusion of law on the part of the witness and the matter has been fully shown by the previous evidence.)

A. Yes, sir.

Q. Have you with you any of the original orders or demands from the Government for governmental transportation over the line of the Southern Pacific Railroad Company?

(Same objection.)

A. Yes, sir (producing).

Mr. REDDING.—Defendants offer in evidence transportation order made by the Government of the United States upon the Southern Pacific Company, wherein the demand is made by the Government that the Southern Pacific Company transport Private F. Armstead and —— pounds of extra baggage of Company C, 10th Regiment Infantry, from San Francisco, California, to Los Angeles, California, by the way of the Southern Pacific

Railroad Company, signed by R. N. Batchelder, Quartermaster General, United States Army, duly countersigned; and ask that it be marked Defendants' Exhibit before the Special Examiner No. 121, and that a copy made by the special examiner be certified and when so certified stand in lieu of the original.

Mr. CALL.—Objected to as incompetent, immaterial, and irrelevant, and not the best evidence, and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company made by the act of Congress of March 3, 1871, by the terms and conditions of said act, and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company, and were reserved before the Southern Pacific Railroad Company filed its map of definite location, and upon the further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the Southern District of California, as shown by the records of such decisions in evidence herein, and upon the further ground that the Southern Pacific Railroad Company, to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked Master's Exhibits 1, 2, and 3, and Defendants' Exhibits before the Special Examiner Nos. 88 and 89, has surrendered to the United States all interest in these lands, and did thereby surrender to the United States, in each case of consolidation, all right to earn

such lands by constructing a railroad; and upon the further ground that the mortgage of 1875 to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company, and upon the further ground that the records of the interior department and of the United States landoffice at Los Angeles and the United States landoffice at San Francisco and the records of the office of the secretary of state for California, and the public laws of the United States and of California, show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands.

(Transportation order made by the Government of the United States upon the Southern Pacific Company to transport F. Armstead is marked "Defendants' Exhibit before the Special Examiner No. 121, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Defendants next offer in evidence similar order for transportation upon the Southern Pacific Railroad Company, dated June 30th, 1893, and signed by R. N. Batchelder, Quartermaster General of the United States Army, and duly countersigned, calling upon the Southern Pacific Railroad Company to transport Sergeant Charles H. Trask, of Troop G, and two privates, Company C, First Regiment Cavalry, en route from Alcatraz Island, California, to Wilcox, Arizona, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 122," and when a copy is certified by

the special examiner that the copy may stand in lieu of the original.

(Same objection.)

(Order for transportation upon the Southern Pacific Railroad Company, dated June 30th, 1893, to transport Sergeant Charles H. Trask, is marked "Defendants' Exhibit before the Special Examiner No. 122, Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. REDDING.—Q. Are these two demands or requests for transportation by the Government recently made for transportation upon the Southern Pacific Railroad Company and the Southern Pacific Company?

(Same objection.)

A. Yes, sir.

Q. Was the transportation performed by the Southern Pacific Company as lessee of the Southern Pacific Railroad Company, and by the Southern Pacific Railroad Company in conformity with such demand or request by the Government?

(Same objection.)

A. Yes, sir.

Q. Is that the common form of demand made by the Government for transportation over the line of the Southern Pacific Railroad Company between the points named?

(Same objection.)

A. Yes, sir.

Q. Is it honored by that company in each instance?

(Same objection.)

A. Yes, sir.

Cross-Examination.

Mr. CALL.—Q. What proportion of the full amount of the fare was paid upon that transportation request last referred to?

A. It has not been paid yet. It has never been settled.

Q. Has either one of them been settled?

A. No, sir.

Q. What is the deduction which you say is usually made for a land grant road?

A. 50 per cent.

Q. What was it in 1891?

A. 60 per cent.

Q. What was it in 1890? A. Full payment.

Q. What was it prior to that time?

A. I believe there was a deficiency appropriation that had the same condition of 60 per cent. in it which covered the deficiency of 1890, but the general appropriation was full payment prior to 1891.

Q. Did that cover transportation of troops, munitions of war, public stores and other Government property?

A. Do you mean full payment?

Q. Yes, sir. A. Yes, sir.

Q. How long has the railroad been operated by the Southern Pacific Company of Kentucky?

A. Since 1885.

Q. What deductions were made for land grant roads in paying for transportation of mails prior to 1890?

Mr. REDDING.—We object to the question as not proper cross-examination; I have not asked Mr. Wilder anything in reference to postal service, and I doubt if the witness' testimony would be competent, as not being the best evidence.

A. 20 per cent. reduction.

Mr. CALL.—Q. How long did that deduction continue previous to 1890?

A. I think it was in the law of 1876.

Q. It was all fixed by law? A. Yes, sir.

Q. Are you an officer of the Southern Pacific Company of Kentucky or of the Southern Pacific Railroad Company? A. Southern Pacific Company.

Q. How are the accounts adjusted between the Southern Pacific Company and the Southern Pacific Railroad Company?

A. The accounts are all kept in the name of the Southern Pacific Company, and then monthly we make a distribution of the earnings for the different roads over which service is performed, including the Southern Pacific Railroad Company.

Q. And then there is paid by the Southern Pacific Company of Kentucky the amount called for under the lease? A. Yes, sir.

Q. Has the Government ever made a deduction for transportation of troops and munitions of war and public stores where the service was performed by the Southern Pacific Company of Kentucky and accounts made by that company to the Government?

A. No, sir.

(14th line.—This answer was subsequently corrected. See foot-note on page 680 at the end of Mr. Wilder's testimony. S. P.)

Q. Has the Government ever made deduction for transporting of mails where the service was performed by the Southern Pacific Company of Kentucky?

A. The same deduction as if it had been performed by the Southern Pacific Railroad Corporation.

Q. Then a deduction was in fact made where the service was performed by the Southern Pacific Company of Kentucky?

A. Just the same as if it had been performed by the Southern Pacific Railroad Company.

Q. When was the present contract made for carrying mails from Goshen to Yuma by the Southern Pacific Company of Kentucky?

A. The present arrangement, which is hardly in the nature of a contract, went into effect July 1, 1890; we made no contract so far as having any written agreement; we were obliged to carry the mails; I believe the act compels that, and the compensation is determined by law, based on the weight of the mails carried, which is determined by weighing once in four years.

Q. What is paid to the Southern Pacific Company for carrying mails from Goshen to Yuma?

A. I cannot tell the figures.

Q. What is the mode of keeping the account with the Government—do you make out an account monthly or otherwise, in reference to the transportation of mails?

A. We make no account; the sum paid is a fixed sum

and the postoffice department draw their warrants for the amount quarterly.

Q. And send it?

A. Send it; yes, sir. Of course, we enter up the amounts on our books.

Q. Do you mean to say then that the amount paid now is only half the amount paid to other roads for similar services? A. Not for mails.

Q. How is it for mails?

A. The amount paid for mail transportation is the same to any other land grant road for mail transportation —that is, 80 per cent. of the regular rates.

Redirect Examination.

Mr. REDDING.—Q. Where is Wilcox?

(Same objection.)

A. In Arizona.

Q. How far from San Francisco?

(Same objection.)

A. Say in the neighborhood of 1,000 miles.

Q. The lines of what companies leased by the Southern Pacific Company are used in the transportation of soldiers and other governmental effects, not postal, between San Francisco and Wilcox?

(Same objection.)

A. The Central Pacific between San Francisco and West Oakland; the Northern Railway between West Oakland and Martinez; the Southern Pacific Railroad Company between Martinez and Tracy; the Central Pacific Railroad Company between Tracy and Goshen; the South-

ern Pacific Railroad Company between Goshen and Yuma; the Southern Pacific Railroad Company of Arizona from Yuma east to Wilcox.

Q. Then, if a Government transportation was made by the Southern Pacific Company from San Francisco to Wilcox recently, will you please state how the amounts to be paid by the Government would be adjusted over the several lines of leased railroads used?

(Same objection.)

A. The settlement would be made with the Southern Pacific Company for the entire distance, the payment due the land grant portion of the line being reduced according to the law.

Q. What portion of the distance named is the land grant portion of the line?

(Same objection.)

A. I have not the miles in my mind.

Q. Would it include that portion of the line from Mojave by the way of Los Angeles to Fort Yuma?

(Same objection.)

A. Yes, sir.

Q. Will you state whether the Southern Pacific Company would receive from the Government the same rate for the transportation of soldiers between Mojave, by the way of Los Angeles, and Fort Yuma, and between Goshen and Yuma and between Tracy and Yuma as it would receive from San Francisco to Tracy?

(Same objection.)

A. The rate used is a through rate covering the entire distance from San Francisco to Wilcox.

Q. How would that be apportioned afterward?

(Same objection.)

A. On the basis of the mileage of land grant and nonland grant roads.

Q. Then there would be a difference between the land grant portion of the road and the nonland grant portion of the road?

(Same objection.)

A. In the final settlement there would be a deduction from the land grant portion.

On page 676, line 14, I desire to withdraw my answer "No, sir," and substitute the following answer in lieu thereof: The same deductions have been made as would have been made if settlements had been made with the individual corporations over whose roads the service was performed.

C. J. WILDER.

22101

FOLD OUT IS TOO LARGE TO BE FILMED

Defendants' Exhibit Before the Special Examiner No. 121.

L. No. 77,313.

Not transferable and good only for two days from date.

Quartermaster's Department U. S. Army. Request for transportation. Not valid until countersigned by the issuing officer.

San Francisco, July 7, 1893.

The Southern Pacific Company, via Martinez and Tracy, will please transport Pvt. J. Armstead, ——— pounds extra baggage. Co. C, 10th Regiment Infy. From San Francisco, Cal., to Los Angeles, Cal., via S. P. Co. and S. C. Ry. Co., en route from San Francisco, Cal., to San Diego, Bks., Cal., on continuous journey.

R. N. BATCHELDER,
Quartermaster General,
U. S. Army.

Signature of issuing officer: J. G. C. Lee, Deputy Quartermaster General U. S. A.

Remarks: Settlement for the service to be made according to law by the accounting officer of the treasury. 1st class limited.

The holder of this request or the officer in charge of troops is required to fill the receipt below before signing, stating the exact number of men transported and the places from and to which transportation has been furnished. The receipt should be filled up in ink if practicable, and if the person receipting cannot write his name,

there should be a witness to his mark. Names and places should be written in full, and if the transportation is furnished by other than passenger train, or passenger car, the fact should be stated.

San Francisco, Cal., July 7, 1893.

I certify, on honor, that the Southern Pacific Company, via Martinez and Tracy, has furnished transportation for myself ——— pounds extra baggage, from San Francisco, Cal., to Los Angeles, Cal., in compliance with the above request.

Sign here—James Armstead.

(Printed on the side): Settlement to be made on the basis of the division among the railroads interested of the through rate between ultimate terminal points.

(On the back): San Francisco, July 7, 1893.

I certify that this request is issued upon the authority of Order No. 18, San Francisco Sub. Depot Recruiting Service, C. S., and on account of joining Co. from enlistment.

(Signed) J. G. C. LEE,
Deputy Quartermaster General,
U. S. Army.

The account for the transportation on this request, should be presented to ———, Quartermaster U. S. A. at ———, for settlement.

Paid, Voucher No. ——, Abstract B.

For ———, 18—.

By ———,
Quartermaster U. S. A.

(Stamped): Jul. 10, 1893. 3109. (Stamped): So. Pac. Co. M. Jul. 7, 1893. City Office. San Francisco. (Stamped): Treasurer's Office, Jul. 10, 1893, S. P. Co. (Stamped): Genl. Auditor's Office, S. P. Co., July 10, 1893. San Francisco.

(Marked "Defendants' Exhibit before the Special Examiner No. 121. Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, October 10, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 121. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 122.

L. No. 91,910.

Not transferable and good only for twelve days from date. June 30, 1893. Quartermaster's Department, U. S. Army. Request for transportation. Not valid until countersigned by the issuing officer.

The So. Pac. R. R. Co. will please transport Sgt. Chas. H. Trask, Troop "G" and (2) two privates Co. "C," 1st Regiment Cavalry, from San Francisco, Cal., to Wilcox, A. T., via ————, en route from Alcatraz Isl., Cal., to Fort Grant, A. T., on continuous journey.

R. N. BATCHELDER,
Quartermaster General,
U. S. Army.

Signature of issuing officer: J. B. Aleshire, 1st Lt. and R. Q. M. 1st Cav. A A, Quartermaster U. S. A.

Remarks: Settlements will be made on the basis of the division among the roads interested of the through rate between the ultimate terminal points.

The holder of this request or the officer in charge of troops is required to fill the receipt below before signing, stating the exact number of men transported, and the places from and to which transportation has been furnished. The receipt should be filled up in ink if practicable, and if the person receipting cannot write his name, there should be a witness to his mark. Names and places should be written in full, and if the transportation is furnished by other than passenger train or passenger car, the fact should be stated.

S. F., July 4, 1893.

I certify, on honor, that the S. P. Co. has furnished transportation for myself and one man ——— pounds extra baggage, from San Francisco to Wilcox, Arizona, in compliance with the above request.

Sign here—Chas. H. Trask.

(On the back): Fort Grant, A. T., June 30, 1893.

I certify that this request is issued upon the authority of Sar. IV, Post Order No. 92, dated June 29, 1893, issued in compliance with Sar. IV, S. O. No. 103 C. S. Headquarters, department of Arizona, and on account of guard returning to proper station, after escorting military convict to Alcatraz Island, Cal.

J. B. ALESHIRE,

1st Lt. and R. Q. M. 1st Cav. A A, Q. M. U. S. Army.

The account for the transportation furnished on this request should be presented to ————————, Quartermaster U. S. A., at ————————, for settlement. Paid, Voucher No. ———— Abstract B.

For ————————

By ————————,
Quartermaster, U. S. A.

(Stamped): July 6, 1893, 3196. (Stamped): Treasurer's Office, Jul. 6, 1893, S. P. Co. (Stamped): Genl. Auditor's Office, S. P. Co., Jul. 6, 1893, San Francisco.

(Marked "Defendants' Exhibit before the Special Examiner No. 122, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, October 10th, 1893.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 122. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 132.

F. D. W. J. M.
C. S. B. (4—207.)

Department of the Interior,
General Landoffice,
Washington, D. C., Sept. 29, 1893.

I, Edwd. A. Bowers, acting commissioner of the general landoffice, do hereby certify that the annexed copy of the

letter of Acting Secretary B. R. Cowen, dated May 11, 1874, and copy of the enclosure transmitted therewith, are true and literal exemplifications of the originals now on file in this office, together with all endorsements thereon.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] EDW. A. BOWERS,
Acting Commissioner of the General Landoffice.

Lands
&
Railroad.

Z. B. S. Department of the Interior,
Washington, D. C., 11th May, 1874.

Sir: I transmit herewith, for appropriate action, a map of 50 miles of the Southern Pacific Railroad, showing the line of that road from a point in the N. W. ¼, section 3, township 2 N., R. 15 W., San Bernardino base and meridian, running thence in a southeasterly direction to the city of Los Angeles, and thence in an easterly direction to the termination of the 50th mile therefrom, at a point in the N. E. ¼, section 27, township 1 S., range 9 W., same base and meridian.

I also send you a copy of Dept. — letter of the 8th inst., to the President of the United States, recommending the

acceptance of this portion of road, and of his endorsement thereon, of the 9th inst., accepting it.

Very respectfully,

Your obt. Servant,

R. B. COWEN,

Acting Secretary.

To Hon. W. W. Curtis, Acting Commissioner, G. L. O.

(Copy.) Department of the Interior,

Washington, D. C., 8th May, 1874.

Sir: I have the honor to submit herewith for your action the report, dated 15th ultimo, of Messrs. Foulke, Brown & Sullivan, appointed by you to examine and report upon the Southern Pacific Railroad and Telegraph Line. They have examined the 50 miles of road, etc., commencing at a point in the N. W. ¼, section 3, township 2 N., range 15 west, San Bernardino base and meridian, running thence in a southeasterly direction to the city of Los Angeles, and thence in an easterly direction, ending at the termination of the 50th mile therefrom, at a point in the N. E. ¼, section 27, township 1 S., range 9 W., same base and meridian.

The commissioners in their report represent (with exception of a few defects which the company promise to remedy hereafter) that this portion of road is completed and equipped as a first-class railroad, and that the telegraph line is finished for the same distance, and is first

class. I therefore respectfully recommend the acceptance of the same, and the issue to said company of patents for lands due on account of the construction thereof, agreeably to the provisions of the "act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast," approved 27 July, 1866, and the acts amendatory thereof, approved 25 July 1868, and 28th June, 1870.

Very respectfully,

Your ob't servant,

R. B. COWEN,

Acting Secretary.

To the President.

[Endorsed]: Department of the Interior, 8th May, 1874. B. R. Cowen, acting secretary, submits to the President report of commissioners on 1st section of fifty miles of Southern Pacific R. R. Executive Mansion, May 9, 1874. The within recommendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 132. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 133.

F. (4-207.) W. J. M.

C. S. B.

Department of the Interior,

General Land Office,

Washington, D. C., Sept. 29, 1893.

I, Edwd. A. Bowers, acting commissioner of the general landoffice, do hereby certify that the annexed copy of a letter of the secretary of the interior, dated Nov. 13, 1875, and a copy of the enclosure transmitted therewith, are true and literal exemplifications of the originals now on file in this office, together with all the endorsements thereon.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[Seal] EDW. A. BOWERS,

Acting Commissioner of the General landoffice.

Land

& RR.

Z. B. S.

Department of the Interior,

Washington, D. C., 13th Nov., 1875.

Sir: I transmit herewith, for appropriate action, a map of fifty miles of the railroad constructed by the Southern Pacific Railroad Company of California under the act

of the third of March, 1871, which authorized said company to build a line "from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad, at or near the Colorado river." The section delineated on the map begins at a point in the N. E. ¼, sec. 27, T. 1 S., R. 9 W., San Bernardino base and meridian, and ends in a point in the S. W. ¼, sec. 4, T. 3 S., R. 1 W., same base and meridian.

I also transmit herewith copy of a letter addressed by me on the 8th instant, to the President, recommending the acceptance of said section, and of his indorsement thereon approving the recommendation.

I am, sir,

Very respectfully,

Your obt. servant,

Z. CHANDLER,

Secretary.

Hon. S. S. Burdett, Comm'r Gen. Landoffice.

(Copy.)

Department of the Interior,

Washington, D. C., 8th Nov., 1875.

Sir: I have the honor to submit herewith for your consideration and, if deemed proper, for your approval, the report under date of the 21st ult. of Messrs. Foulke, Brown & Sullivan, commissioners appointed by you to examine the Southern Pac. R. R. and Telegraph Line of California. They have examined an additional section of 50 miles of the (branch) road and telegraph line

authorized by the 23rd section of the act of 3d March, 1871 (known as the Texas Pac. R. W. act), to be constructed by the said Southern Pac. R. R. Co. This portion of road commences at the termination of section 1 of said branch, at a point in the N. E. ¼ of section 27, T. 1 S., R. 9 W., San Bernardino base and meridian, and runs thence 50 miles to a point in the S. W. ¼ of section 4, T. 3 S., R. 1 W., same base and meridian.

The commissioners report this section completed and equipped as a first-class railroad, and the telegraph as also completed and first-class.

I therefore respectfully recommend the acceptance of said 2d section of 50 miles of branch road and the issuance to the company constructing it of patents for lands due on account of such construction, agreeably to the provisions of law.

Very respectfully,

Z. CHANDLER,

Secretary.

The President.

[Endorsed]: Department of the Interior, 8th Nov., 1875. Z. Chandler, Secretary, submits to the President report of commissioners on 2d section of branch line, of Southern Pac. R. R. of California. Executive Mansion, Nov. 11, 1875. The within recommendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 133. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 134.

F. (4-207.) W. J. M.

C. S. B.

Department of the Interior,

General Land Office,

Washington, D. C., Sept. 29, 1893.

I, Edwd. A. Bowers, acting commissioner of the general landoffice, do hereby certify that the annexed copy of a letter from the secretary of the interior, dated July 22, 1876, and a copy of the enclosure transmitted therewith, are true and literal exemplifications of the originals now on file in this office, together with all the endorsements thereon.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] EDW. A. BOWERS,

Acting Commissioner of the General Landoffice.

Z. B. S.

Department of the Interior,

Washington, D. C., 22nd July, 1876.

Sir: I tranmit herewith a map and profile of the 3rd section (50 miles) of the branch line of the Southern Pacific Railroad of California; also copy of letter addressed by me to the President, on the 10th inst., submitting the

report of the commissioners who examined said section, with copy of his indorsement thereon, the 21st instant.

I am, sir,

Very respectfully,

Your ob't servant,

Z. CHANDLER,

Secretary.

Hon. J. A. Williamson, Com'r Gen. Landoffice.

(Copy.)

Department of the Interior,

Washington, D. C., 10 July, 1876.

Sir: I have the honor to submit herewith for your examination, and if deemed proper for your approval, the report, under date of the 22d ultimo. of Messrs. L. M. Foulke, Calvin Brown, and Eugene L. Sullivan, commissioners appointed by you to examine the Southern Pacific Railroad and telegraph line of California. They have examined the 3d section of fifty miles of the branch road and telegraph line authorized by the 23d section of the act of 3d March, 1871 (known as the Texas Pacific Railway act), to be constructed by the Southern Pacific Railroad Company. This portion of road begins at the termination of section No. 2 of said railroad at a point in the S. W. ¼ of section 4, T. 3 S., R. 1 W., San Bernardino base and meridian, and running thence in a southeasterly direction fifty miles to a point in the S. W. ¼ of sec. 24, T. 5 S., R. 7 E., same base and meridian.

The commissioners report this section completed and equipped as a first-class railroad, and the telegraph as also completed and first-class. I therefore respectfully recommend the acceptance of said 3d section of fifty miles of branch road, and the issuance to the company constructing it of patents for lands due on account of such construction, agreeably to the provisions of law.

I am, sir,

Very respectfully,

Your ob't servant,

Z. CHANDLER,

Secretary.

The President.

[Endorsed]: Department of the Interior, 10th July, 1876. Z. Chandler, secretary, submits to the President report of commissioners on 3d section of 50 miles, branch line of So. Pac. R. R. of Cal. Executive Mansion, July 21, 1876. The within recommendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 134. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 135.

F. (4-207.) W. J. M.

C. S. B.

Department of the Interior,

General Land Office,

Washington, D. C., Sept. 29, 1893.

I, Edwd. A. Bowers, acting commissioner of the general landoffice, do hereby certify that the annexed copy of a letter of acting secretary of the interior, dated March 3, 1877, and a copy of the enclosure transmitted therewith, are true and literal exemplifications of the originals now on file in this office, together with all the endorsements thereon.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] EDW. A. BOWERS,

Acting Commissioner of the General Landoffice.

Z. B. S.

Department of the Interior,

Office of the Secretary,

Washington, D. C., 3d March, 1877.

Sir: I transmit herewith, for appropriate action, copy of letter addressed by the department to the President on the 1st instant, recommending his acceptance of the 4th

section (Branch line) 78 59-100 miles of the Southern Pacific Railroad of California, and copy of his endorsement thereon yesterday, approving the recommendation. The map accompanying the report of the commissioners will also be found herewith.

I am, sir,

Very respectfully,

Your ob't servant,

CHAS. T. GORHAM,

Acting Secretary.

Hon. J. A. Williamson, Com'r Gen. Landoffice.

(Copy.)

Department of the Interior,

Washington, D. C., 1st March, 1877.

Sir: I have the honor to submit herewith for your consideration and if deemed proper for your approval, the report, under date of the 17th ultimo, of Messrs. L. M. Foulke, Calvin Brown, and Eugene L. Sullivan, commissioners appointed by you to examine the Southern Pacific Railroad and telegraph line of California. They have examined the 4th section, 78.59 miles of the road, which said company are authorized by the 23d section of the act of 3d March, 1871 (16 Stat. 579), to build Said section begins at a point in the N. W. ¼ of sec. 3, T. 2 N., R. 15 W., San Bernardino base and meridian, runs northerly, and ends at a point in the N. E. ¼, sect. 17, T.

11 N., R. 12 W., same base and meridian. They report said section as completed and equipped as a first-class railroad, and the telegraph line also as completed and first-class. I therefore respectfully recommend the acceptance of said 4th section, and the issuance to the company constructing it of patents for lands due on account of said construction, agreeably to the provisions of law.

I am, sir,

Very respectfully,

Your ob't servant,

CHARLES T. GORHAM,

Acting Secretary.

The President.

[Endorsed]: Department of the Interior, 1st March, 1877. Charles T. Gorham, acting secretary, submits to the President report of commissioners on 4th section (branch line), 78.59 miles, of So. Pac. R. R. of California. Executive Mansion, March 2, 1877. The within recommendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 135. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 136.

F. (4-207.) W. J. M.

C. S. B.

Department of the Interior,

General Land Office,

Washington, D. C., Sept. 29, 1893.

I, Edwd. A. Bowers, acting commissioner of the general landoffice, do hereby certify that the annexed copy of a letter from the secretary of the interior, C. Schurz, dated January 30, 1878, and a copy of the enclosure transmitted therewith, are true and literal exemplifications of the originals now on file in this office, together with all the endorsements thereon.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] EDW. A. BOWERS,

Acting Commissioner of the General Landoffice.

Z. B. S.

Department of the Interior,

Office of the Secretary,

Washington, D. C., 30th January, 1878.

Hon. J. A. Williamson, Comm'r Gen. Landoffice.

Sir: I transmit herewith, for your information and appropriate action, copy of my letter of the 19th instant

to the President, recommending the acceptance of a portion of the 5th section of the Southern Pacific Railroad of California, and of his endorsement thereon of the 23d instant; also the map which accompanied the report of the commissioners who examined said section.

I am, sir,

Very respectfully,

Your obt. servant,

C. SCHURZ,

Secretary.

(Copy.)

Department of the Interior,

Office of the Secretary,

Washington, D. C., 19th January, 1878.

Sir: I have the honor to submit herewith for your consideration the report, under date of the 6th ultimo of Messrs. Eugene L. Sullivan, Andrew S. Bender and Zebulon B. Sturgus, commissioners appointed by you to examine the Southern Pacific Railroad and Telegraph line of California.

They have examined the 5th section of what is known as the branch line of said road, authorized by the 23d section of the act of 3d March, 1871, incorporating the Texas Pacific Railroad Company (16 Stat. 579). Said section is 118.37-100 miles in length. It begins at a point in the S. W. ¼ of section 24, T. 5 S., R. 7 E., San Bernardino base and meridian; runs southeastward and ends in the center of the Colorado river, at a point which, if the United States surveys were extended into said river,

would be in the S. E. ¼ of sec. 26, T. 16 S., R. 22 E., same base and meridian.

The commissioners report said section as completed and equipped as a first-class railroad and the telegraph line also as completed and first class.

Said 23d section of the act of 1871, authorizes the Southern Pacific Railroad Company of California to construct its road "to the Texas Pacific Railroad at or near the Colorado river." The Texas Pacific Railroad not having been constructed at or near said river, the point of contact of said roads has not been ascertained except as to the fact that it is within the Fort Yuma military reservation.

In view of your action last autumn in relation to said Southern Pacific Railroad's crossing said reservation, I have the honor to recommend that said section examined and reported on be accepted from the point of beginning to the point where the road intersects the western boundary of said reservation, which is represented on the map accompanying said report as a point in the S. E. ¼ of N. E. ¼, sec. 27, T. 16 S., R. 22 E., San Bernardino base and meridian, and that patents for lands due on account of construction, according to provisions of law, issue to said Southern Pacific Railroad Company of California.

I am, sir,

Very respectfully,

Your ob't servant,

C. SCHURZ,

Secretary.

The President.

[Endorsed]: The secretary of the interior, 19th January, 1878, submits report of commissioners on the 5th section; 118.37 miles of Southern Pacific Railroad, authorized by act of 3d March, 1871, and recommends that the road examined be accepted from the beginning of said section to the point where it crosses the western boundary of Fort Yuma military reservation, Cal. Executive Mansion, January 23, 1878. The recommendations of the secretary of the interior are hereby approved. The section of railroad is accepted between the points designated by him, and lands will be patented to the company accordingly. R. B. Hayes.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 136. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 137.

M. C. P. A. M.

Department of the Interior,

Washington, October 4, 1893.

D. A. Chambers, Esq., City.

Sir: I have at hand your letter of yesterday asking to be advised of the dates of receipt and filing in the department of the reports of the commissioners, and accompanying maps and profiles, on the completed sections of the Southern Pacific Railroad of California, branch line.

In answer I have to state that the report, with accompanying map and profile, of the first section, with letter of May 4, 1874, from C. P. Huntington was received and filed May 7, 1874; that of the second section from same person with letter of November 5, 1875, was received and filed November 6, 1875; that of the third section from same person with an undated letter was received and filed July 10, 1876; that of the fourth section from same person with letter of February 27, 1877, was received and filed February 28, 1877, and that of the fifth section from same person with letter of December 26, 1877, was received and filed December 28, 1877.

Very respectfully,

WM. H. SIMS,
Acting Secretary.

11282-'93.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 137. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

San Francisco, October 3, 1893.

Testimony of G. L. LANSING.

G. L. LANSING, called as a witness on behalf of the defendants, being duly sworn testified as follows:

Direct Examination.

Mr. REDDING.—Q. What is your present occupation?

A. I am secretary and controller of the Southern Pacific Company.

Q. As such controller, do you have any official relations with the accounts of the Southern Pacific Railroad Company and its dealings with the Government of the United States?

A. Yes, sir; the Southern Pacific Company is the lessee of the Southern Pacific Railroad Company's property.

Q. What are your official duties with respect to the Southern Pacific Company and the Southern Pacific Railroad Company, acting in the capacity you have named?

A. I have control of the settlement of accounts in connection with the operation of the Southern Pacific Railroad, and in connection with the transportation by the Southern Pacific Railroad for the United States Government of mails, troops, military supplies, and so forth, and I have charge of all matters affecting the operations of the Southern Pacific Railroad lines so far as the accounting is concerned and the settlement of the accounts.

Q. Are you in communication officially with the Government of the United States in connection with these matters? A. Yes, sir.

Q. The Southern Pacific Railroad Company branch line, as it is known, has a grant to it under the act of Congress of March 3, 1871; the terms of this grant provide for the railroad to be constructed, and when constructed to be maintained as a first-class road, and to be at all times subject to the use of the United States for a mili-

tary and postal road, and for the transportation of the effects of the Government and munitions of war etc. Will you state whether or not there is the relation established between the Government of the United States and the Southern Pacific Railroad Company under this act of Congress by which this road between a point at or near Tehachapi, by way of Los Angeles, to Fort Yuma has been and is now being used for the purposes that I have enumerated?

(Question objected to by Mr. Call as incompetent, immaterial, and irrelevant, and not the best evidence, and upon the further ground that the lands in suit herein were excepted out of the grant to the Southern Pacific Railroad Company, made by the act of Congress of March 3, 1871, by the terms and conditions of said act; and upon the further ground that the lands in suit herein were withdrawn for the Atlantic and Pacific Railroad Company, and were reserved before the Southern Pacific Railroad Company filed its map of definite location; and upon the further ground that the matters in issue in this suit have been finally decided and adjudicated by the Supreme Court of the United States and the United States Circuit Court for the Southern District of California, as shown by the records of such decisions in evidence herein; and upon the further ground that the Southern Pacific Railroad Company, to which the grant was made by the act of Congress of March 3, 1871, by entering into the articles of consolidation and amalgamation in evidence herein, marked Master's Exhibits 1, 2, and 3, and Defendants' Exhibits before the Special Ex-

aminer Nos. 88 and 89, has surrendered to the United States all interest in these lands and did thereby surrender to the United States in each case of consolidation all right to earn such lands by constructing a railroad; and upon the further ground that the mortgage of 1875, to Lloyd Tevis and D. O. Mills, trustees, shows upon its face that it does not purport to cover lands not granted to the Southern Pacific Railroad Company; and upon the further ground that the records of the interior department and of the United States landoffice at Los Angeles and the United States landoffice at San Francisco, and the records of the office of the secretary of State for California, and the public laws of the United States and of California, show that the Southern Pacific Railroad Company, defendant herein, has no interest in these lands.)

A. Yes, sir; the relations which at present exist and are recognized between the Southern Pacific Railroad Company, its lessee, the Southern Pacific Company, and the officials of the United States Government, so far as my business relations with them are concerned, are those that have been and are provided for by the act of Congress referred to in the question.

Q. Do you know of your own knowledge whether or not the Government of the United States is using the line of railroad of the Southern Pacific Railroad Company, one of the defendants in this action, from a point at or near Tehachapi Pass, by the way of Los Angeles, to a point on the Colorado river, near Yuma, for the purpose of transporting its postal business and troops, munitions of war, stores, and other Government effects?

Mr. CALL.—Mr. Redding, does our understanding still continue in regard to inserting the words "same objection" to stand in lieu of the objection previously made?

Mr. REDDING.—I understand that it does.

Mr. CALL.—Insert "same objection" to each question.

(Same objection.)

A. Yes, sir; it is.

Mr. REDDING.—Q. Will you state how this information and knowledge comes to be known by you officially?

(Same objection.)

A. In my official position it is my business to settle the accounts between the United States and the Southern Pacific Railroad Company for transportation of mails, troops, military supplies, etc., for the Government over the line of railroad named, and by that means I know personally of the transportation being performed and the terms of its settlement on the part of the part of the Government.

Q. Will you please produce the last official report of these transactions issued by the postmaster's department of the Government, and state therefrom under what rules and regulations of the postal department the Southern Pacific Railroad Company, one of the defendants in this action, is now proceeding with reference to Government transportation?

(Same objection.)

A. The volume that I have before me is the postal laws and regulations of the United States of America, published in Washington, at the Government printing office in 1893; this volume gives the regulations relating

to the transportation of mails, and the laws upon which they are based; sections 716, 717, 718 and 719 in this volume, pages 293 and 294, state the method of fixing the rate for the transportation of mail as provided by law, covering all the railroads in the United States, and finally referring to land grant roads; relating to land grant roads, section 719 recites that "railroad companies whose railroad was constructed in whole or in part by a land grant made by Congress on the condition that the mails should be transported over their road at such price as Congress should by law direct, shall receive only eighty per centum of the compensation authorized by this act; act of July 12, 1876."

Q. Is the law that you have just quoted the one that is being applied by the postal department of the United States to the transactions of the Southern Pacific Railroad Company between the points named in reference to governmental transportation?

(Same objection.)

A. Yes, sir; it is.

Mr. REDDING.—Defendants ask leave to refer to the postal laws and regulations of 1893, printed at the Government printing office, and entitled as follows: "Postal laws and regulations of the United States of America, compiled, revised, and published in accordance with the act of Congress, approved March 3, 1891, Washington, Government printing office, 1893," and so much thereof as may refer to land grant railroads, and in particular to the Southern Pacific Railroad Company, one of the defendants in this action; and ask that the same may

be considered in evidence; and the defendants hereby offer in evidence this volume, and ask that it be marked "Defendants' Exhibit before the Special Examiner No. 97," or in lieu of its being offered in evidence that it may be so considered by this Court as an official document in the record.

(Same objection.)

Mr. CALL.—I have no objections to its being considered in evidence by reference, without the necessity of burdening the record by having it actually filed as an exhibit.

Mr. REDDING.—That being satisfactory, we will so consider it.

Mr. CALL.—Yes, sir; subject to the objections made.

Mr. REDDING.—And I understand that on your part to all intents and purposes it is in evidence?

Mr. CALL.—Yes, sir.

Mr. REDDING.—Without objection as to the incompetency of the volume, as an official document.

Mr. CALL.—It is in evidence with the same effect as if it had actually been filed and marked as an exhibit in the case.

Mr. REDDING.—Q. Please show how this is so.

(Same objection.)

A. The report of the postmaster general of the United States for 1890, pages 450 and 451, contains a table showing readjustment of the rates of pay for mail on railroad routes in states and territories in which the contract term expired June 30, 1890; on page 450 among the routes enumerated is route 176,014, Goshen, Cali-

fornia, to Yuma, Arizona, particular title of the company carrying the mail is the Southern Pacific Company, the length of the road is 490.55-100 miles, the average weight of mails carried over entire route per day is 4,737 pounds, the pay per mile per annum for transportation $133.38, for 4,737 pounds, average weight of mail carried over entire route per day; by referring to the postal laws and regulations above quoted it will be seen that the compensation as fixed by those law requires the ascertainment of the average weight of mails carried over the entire route per diem; applying the laws upon the average weight here shown 4,737 pounds, the calculation will show that the rate which the postmaster general reports as being paid, namely, $133.38 per mile per annum is eighty per centum of the rate allowed by section 719 of the postal laws and regulations above referred to; this showing that the postoffice department, in fixing the rate for the contract term commencing with July 1, 1890, recognized the operation of the land grant act of the Southern Pacific Railroad, in allowing but eighty per cent of the usual compensation for the service.

Q. That refers to what years?

(Same objection.)

A. The laws of the postoffice department affecting the transportation of mails requires they shall be based upon weighings made for thirty consecutive days, at least once in four years; they allow the term generally to run for four years, but it may be changed by order of the postmaster general before the end of that term; the rate here fixed went into effect July 1, 1890, and is still in effect.

Q. Do you know whether or not the Southern Pacific Railroad Company, by its lessee, the Southern Pacific Company, is transporting the mails of the Government between the points named, namely, from Tehachapi Pass, by the way of Los Angeles, to Fort Yuma upon the basis stated by you, and in accordance with the rates fixed, as stated by you, from the official records?

(Same objection.)

A. Yes, sir; it is.

Q. Prior to the last adjustment of rates, which, as you state, dates from 1890, what was the rate fixed, and under what rates was the Southern Pacific Railroad Company doing this business?

(Same objection.)

A. The compensation fixed under the law by the postmaster general on the same route, namely, from Goshen to Yuma, covering the contract period of four years ending June 30, 1890, was $123.80 per mile per annum; the payment for this period was made to the Southern Pacific Railroad Company, as appears by the report of the postmaster general for 1890, at page 365.

Q. Why was it made to the Southern Pacific Railroad Company in that instance, and why was it made to the Southern Pacific Company in the instance cited by you before?

(Same objection.)

A. The reason I suppose to be that the lease of the Southern Pacific Railroad to the Southern Pacific Company was made in 1885; the readjustment of pay on which this rate was based by the postmaster general was made

July 1, 1886; at that time there was a question as to the proper relations of the Southern Pacific Railroad Company to the Central Pacific Railroad Company, which was the former lessee of the Southern Pacific Railroad; this led to some disputes between the accounting officers of the treasury department of the Government, and to avoid any mistake being made as to the proper payee they used the name of the lessor company, namely the Southern Pacific Railroad Company, and made settlements with that Company direct.

Q. From what period of time were the rates last stated by you applied to the governmental transportation of the Southern Pacific Railroad Company between the points named?

(Same objection.)

A. I think that was answered in the previous answer; I said for four years ending June 30, 1890.

Q. That would carry it back, then, to June 30, 1886?

(Same objection.)

A. Yes, sir.

Q. Do you know as a fact that the Government of the United States used this portion of the road of the Southern Pacific Railroad Company, namely, between Tehachapi and Fort Yuma, by the way of Los Angeles, for the transportation of Government troops, munitions of war, postal service, and other effects during that time?

(Same objection.)

A. Yes, sir; I do.

Q. What were the rates prior to 1886 allowed by the Government to the Southern Pacific Railroad Company,

or its lessees, for similar use and over the same portion of the road, for mails, munitions of war, and all governmental purposes?

(Same objection.)

A. The rates for the transportation of mails can be shown by the annual reports during the period published by the postmaster general; the rates for the transportation of the army, military supplies, etc., were those which were provided by the tariffs of the railroad company from time to time, covering the particular property transported or the persons.

Mr. REDDING.— We offer in the same manner the report of the postmaster general for the year ending June 30, 1890, and particularly the pages cited by the witness. This volume is entitled in the public print as follows: "Annual report of the postmaster general of the United States for the fiscal year ending June 30, 1890, Washington government printing office, 1890," with the understanding that it shall be considered in evidence to all intents and purposes, without its being filed.

Mr. CALL.—That is satisfactory; and subject to the same objections.

Mr. REDDING.—Q. Have you the postmaster general's report for the four years preceding 1886?

(Same objection.)

A. I have the report here for the year 1886 (producing); the report of the postmaster general for 1886, page 312, shows the rate on the route from Goshen, California, to Yuma, Arizona, over the Southern Pacific Railroad, 490.33-100 miles, at $110.13 per mile, per annum; this

covers the period of four years ending on June 30, 1886; a note on the table opposite the item reads as follows: "Land Grant"; that note is used in those cases where the reduction is made in fixing the compensation allowing but eighty per cent of the usual rates for roads having land grants.

Q. Do you know as a fact whether that was the rate received by the Southern Pacific Railroad Company for the transportation of the postal service between the points named during that period of time from the Goverment?

(Same objection.)

A. It was during that time either received from the Government or credited in account with the Central Pacific Railroad Company, lessee of the Southern Pacific Railroad at that time.

Mr. REDDING.—Defendants offer in evidence, in the same manner as the last exhibit was offered, report of the postmaster general for 1886, which has the official title as follows: "Annual report of postmaster general of the United States for the fiscal year ending June 30, 1886, Washington government printing office, 1886"; and we particularly refer to the pages cited by the witness; and I ask that this be admitted in evidence in the same manner as the last exhibits, without the necessity of this volume being filed as an exhibit at this time.

Mr. CALL.—That is understood, subject to the same objections.

Mr. REDDING.—Q. Prior to 1882, what rates were allowed to the Southern Pacific Railroad Company for postal service between the points named?

(Same objection.)

A. The report of the postmaster general for 1882 on page 172 shows readjustment of rates in effect July 1st, 1881, on route 46,014 from Goshen to Yuma 490 33-100 miles, at the rate of $110.13 per mile per annum.

Q. And prior to that, what rates were charged?

(Same objection.)

A. The rates prior to that are shown on same page of same report to have been $75.24 per mile per annum, and this rate was also in effect on June 30th, 1879, as shown by the report of the postmaster general for the year 1879, at page 99; in the report of the postmaster general for the year 1878, page 151, a table is given showing the readjustment of the rates of pay on contracts which expired June 30th, 1878; on page 150 appears, route 40,014, Huron to Yuma, a distance of 530 29-100 miles, rate of pay per mile per annum $79.20; a note on this page recites that 54½ miles apply from November 1st, 1875, from May 5th, 1877, between Colton and Yuma, the residue of the route from July 1st, 1877; the report of the postmaster general for 1877, on page 57, shows that the compensation paid on June 30th, 1877, being the rate at that time in effect on route 46,014 from Goshen to Caliente, a distance of 95 71-100 miles, being at the annual rate per mile per annum of $54; a note states that pay on 54 40-100 miles is estimated; this is the commencement of compensation on the line as constructed southerly from Goshen.

Q. Have you now stated the rates as regulated by the Government of the United States with reference to the

Southern Pacific Railroad Company between the points named, namely, Tehachapi and Fort Yuma, by the way of Los Angeles, from the commencement of the construction of the road down to the present time?

(Same objection.)

A. Yes, sir.

Mr. REDDING.—The defendants offer in evidence in the same manner as heretofore—that is to say, by reference—the report of the postmaster general for 1877, and we particularly refer to the pages cited by the witness, which report is officially declared to be as follows: "Annual report of the postmaster general of the United States for the fiscal year ending June 30th, 1877, Washington, government printing office, 1877."

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence, in the same manner, the report of the postmaster general for 1878, which is officially published to be as follows: "Annual report of the postmaster general of the United States for the fiscal year ending June 30th, 1878, Washington, government printing office, 1870," with particular reference to the pages cited by witness.

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence, in the same manner, the report of the postmaster general for 1879, officially published to be as follows: "The annual report of the postmaster general of the United States for the fiscal year ending June 30th, 1879, Washington, government printing office, 1879," with particular reference to the pages cited by witness.

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence the report of the postmaster general for 1880, in the same manner, officially published to be as follows: Annual report of the postmaster general of the United States for the fiscal year ending June 30th, 1880, Washington, government printing office, 1880," with particular reference to the pages cited by witness.

(Same objection.)

Mr. REDDING.—Defendants next offer in evidence report of the postmaster general for 1882, in the same manner, officially published as "Annual report of the postmaster general of the United States for the fiscal year ending June 30th, 1882, Washington, government printing office, 1882," with particular reference to the pages cited by the witness; and I ask, Mr. Call, that each one of these may be considered as introduced in evidence by reference, without the necessity of the introduction of them in the records of the case by exhibit mark.

Mr. CALL.—I have no objection to their being offered by reference to the same effect as if they were filed, saving my objections to the evidence heretofore made.

Mr. REDDING.—Q. You have stated that in some instances these rates were allowed direct to the Southern Pacific Railroad Company, and in other instances to the Southern Pacific Company, lessee of the Southern Pacific Railroad Company, and in other instances to the Central Pacific Railroad Company, lessee of the Southern Pacific Railroad Company; will you state in what manner the adjustment was made between the Southern Pacific Railroad Company and its lessees when the rates were al-

lowed to the latter and not to the Southern Pacific Railroad Company direct?

(Same objection.)

A. During the time that the railroad between Goshen and Yuma was leased to the Central Pacific Railroad Company, compensation for United States transportation on that road was withheld by the treasury department on account of the indebtedness of the lessee, the Central Pacific Railroad Company, to the Government, owing to the issue of Government bonds made for the construction of that road; the settlement with the Government, however, for the transportation of mails, as shown by the reports of the postmaster general just quoted, and on the pages named, was made in each case with the Southern Pacific Railroad Company by the United States Government, and the Central Pacific lessee received no payment for the transportation, for each of the years named from the time of the commencement of construction from Goshen, California, southwards towards Yuma—

Mr. REDDING (interrupting).—Let me interrupt you, Mr. Lansing. When you speak of Goshen do you speak of a portion of the main line road which runs by way of Goshen to Tehachapi, and thence by way of Los Angeles to Fort Yuma?

(Same objection.)

Q. You mean on the main line grant?

(Same objection.)

A. Yes, sir; on the main line running southerly through the San Joaquin Valley; the line through the upper portion of the valley was constructed by the Cen-

tral Pacific to Goshen; at Goshen the Southern Pacific construction commenced.

Mr. CALL.—Q. From San Francisco to Goshen was built by the Central Pacific?

A. Yes, sir.

Q. And from Goshen below southward it was built by the Southern Pacific Railroad Company?

A. Yes, sir; I was saying that from the commencement of the construction of the Southern Pacific Railroad from Goshen on the main line near the Tehachapi Pass towards Yuma the transportation for the United States has been accounted for by the United States Government in the name of the Southern Pacific Railroad Company.

Mr. REDDING.—Q. With reference to the use of this line of railroad by the Government for purposes other than postal, will you state what is the method adopted by the Government in calling upon the road to furnish at all times the necessary means of transportation for these purposes. How is the object accomplished by the Government?

(Same objection.)

A. In the event that the Government has any freight, munitions of war, or anything of that kind that it wishes to ship, it sends its freight to the railroad company's depot and delivers it to the railroad company with a prepared bill of lading which is made on a form prescribed by the war department of the Government; this bill of lading is accepted by the railroad company and used in a settlement of its account with the Government subsequently for the services and transportation performed.

Q. Do you know, as a fact, whether or not the Southern Pacific Railroad Company between the points named, and the line thereof, and the rolling stock thereof, have been used by the Government of the United States from the date of its construction down to the present time for the purpose of transporting its munitions of war, troops, and governmental effects?

(Same objection.)

A. Yes, sir; I know that it has been so used continuously.

Q. Is it being used at the present time for these purposes?

(Same objection.)

A. Yes, sir.

Q. Has it been ever since 1878?

(Same objection.)

A. Yes, sir.

Q. You have stated that the pay given to the Southern Pacific Railroad Company by the Government for the transportation of the Government mail, and for the general system of postal service rendered to the Government by the Southern Pacific Railroad Company, between the points named, is less by twenty per cent, or some per cent named, than that allowed other kinds of railroads; what do you mean by that? Will you state why a less percentage is allowed this company than other companies?

(Same objection.)

A. The postal laws fix the compensation for the transportation of mails based upon the service performed, and applying that principle they fixed the rates allowed for

all the railroads of the United States; a road receiving pay in proportion to the service performed, and two roads performing the same service receiving equal pay, but with the roads which received the aid of a grant of land from the Government, subject to a certain condition regarding transportation, Congress passed a law allowing these lines but eighty per cent of the amount allowed other roads for similar services.

Mr. CALL.—Q. Was not that regulation made by the secretary of the interior?

A. No; by an act of Congress; this is the act of Congress approved July 12th, 1876, Volume 19, United States Statutes, page 82.

Mr. REDDING.—Q. Has the Southern Pacific Railroad Company, one of the defendants in this case, been subjected to this deduction by the Government in its pay for transportation of mail and postal service?

(Same objection.)

A. Yes, sir; and it was considered, and has been interpreted by the Government to be in conformity with one of the obligations of the contract existing between the railroad company and the Government as stated in the granting act, and part of the consideration for the grant of lands.

Q. Has this deduction continued through all these years that you have testified?

(Same objection.)

A. Yes, sir.

Q. What was the last adjustment of rate given to the Southern Pacific Railroad Company as a land grant road

under the instructions of the interior department by acts of Congress?

(Same objection.)

A. The Southern Pacific Railroad, under an act of Congress making appropriations for the transportation of the army for the present fiscal year ending June 30th, 1893, was allowed but fifty per cent of the regular rates of transportation for freight and troops.

Q. Was this act of Congress designed to refer to land grant railroads?

(Same objection.)

A. Yes, sir.

Q. Has the interpretation of this act been applied to the Southern Pacific Railroad Company, one of the defendants herein?

(Same objection.)

A. It has.

Q. Do you know whether or not the Southern Pacific Railroad Company, one of the defendants herein, holds itself in position and readiness at all times and under all circumstances and conditions to supply the Government of the United States with transportation over its lines of road, and between the points named herein as aforesaid, for all kinds of governmental effects, including postal service, munitions of war, etc.?

(Same objection.)

A. Yes, sir; it is a fact, the Southern Pacific Railroad Company has always recognized its obligation under the granting act to perform all service required by the Government at all times.

Q. Has that been a continuous existence of things since the construction of the road down to and including the present time?

(Same objection.)

A. Yes, sir.

Q. How long have you been in the employ of the Southern Pacific Company?

(Same objection.)

A. Since March 1st, 1885.

Q. Prior to that time in the employ of what corporations were you?

(Same objection.)

A. I was employed by the Central Pacific Railroad Company prior to that time.

Q. In what capacity?

(Same objection.)

A. As assistant secretary.

Q. Did you in that capacity have charge of the accounts between the Southern Pacific Railroad Company and the Central Pacific Railroad Company as lessee of the Southern Pacific Railroad?

(Same objection.)

A. Yes, sir.

Q. Then your testimony with reference to the relations of the Southern Pacific Railroad Company through its lessee, the Central Pacific Railroad Company, with the Government of the United States, is based on an intimate knowledge of the occurrences happening in the years named?

(Same objection.)

A. Yes, sir; my experience in connection with the subject extends to the time of the commencement of the construction of the Southern Pacific Railroad from Goshen towards Yuma.

Q. And down to and including the present time?

(Same objection.)

A. Yes, sir.

(The witness was temporarily withdrawn in order to take the testimony of James B. Randol and D. G. Scofield, whose testimony appears in this record next following the testimony of this witness, being so placed for convenience in signing.)

An adjournment was then taken by consent of counsel until Wednesday, October 4th, 1893, at 10:30 A. M.)

San Francisco, October 4th, 1893.

Cross-Examination of G. L. LANSING.

Mr. CALL.—Q. Referring to your testimony on direct examination to the effect that the Southern Pacific Company was a lessee of the Southern Pacific Railroad Company of the line from Goshen by way of Los Angeles to the Colorado river—state when that line was leased to the Southern Pacific Company by the Southern Pacific Railroad Company.

A. The lease took effect March 1, 1885; it was dated in February, 1885, the exact date I do not recollect.

Q. Can you produce before the special examiner a copy of the lease? A. Yes, sir.

Mr. CALL.—I ask you to do so.

The WITNESS.—This is the original (producing).

Q. Have you produced before the special examiner the lease referred to? A. Yes, sir.

Q. This is the original lease? A. Yes, sir.

Mr. CALL.—I offer the lease in evidence and ask that the same be marked "Exhibit before the Special Examiner 'M.'" Have you any objections, Mr. Redding, to the special examiner making a copy of it and certifying to it as a copy?

Mr. REDDING.—Not provided it is made here in the building.

(The lease produced by witness and offered in evidence by Mr. Call is marked by the special examiner, "Exhibit before the Special Examiner 'M,' Stephen Potter, Special Examiner," and a certified copy thereof is attached hereto.)

Mr. CALL.—I understood you to say that in reference to the payment by the Government for transporting mails over lines of railroad in which the construction was aided by land grants, that the Government paid 80 per cent of what was paid on other lines—is that correct?

A. Yes, sir; 80 per cent of what is paid to other roads for similar service.

Q. Does the same rule prevail with reference to the transportation of troops, and munitions of war and public stores?

A. No, sir; they are paid 50 per cent of what is charged private parties for similar service under the present appropriation acts.

Q. What is the remedy of an aided railroad if the com-

pensation fixed is not satisfactory or is not deemed sufficient by the company?

A. I understand that there is no remedy; that the rate is fixed by the Government at its own will in consideration of the stipulations of the contract which are embodied in the granting act, that the Government can fix a rate of 80 per cent or of 2 per cent or of one per cent if it chooses to do so.

Q. Has the Southern Pacific Company of Kentucky recovered any moneys from the Government in the court of claims outside of those allowed by the department for transporting of mails or other Government property?

Mr. REDDING.—We will object to the question as being misleading; and request the counsel to specify what he means in reference to the recovery of moneys.

Mr. CALL.—I wish the witness to explain that.

Mr. REDDING.—I object to the question as misleading. The question does not state that it refers to transactions between the Southern Pacific Railroad Company and the Government in particular. The Southern Pacific Company is dealing with a half a dozen or more companies, and I ask that the counsel for the Government, in order not to mislead the witness, specify what particular moneys or suits or claims he refers to and between the Government on the one side and the Southern Pacific Railroad Company or the Southern Pacific Company in its dealings with the Southern Pacific Railroad Company on the other.

A. The Southern Pacific Company has received a judgment in the court of claims which has been affirmed by the Supreme Court of the United States for an amount to ex-

ceed $1,800,000 for transportation services due it in cash; Congress has never made any appropriation for the payment of this claim; I am not advised whether any portion of the amount is for transportation over the line between Goshen and Yuma or any portion of the Southern Pacific Railroad.

Q. Referring to those lines which are not aided by the Government, is the mode for payment by the Government the same as over aided lines—that is, is it done as you were stating by means of transportation requests?

A. Yes, sir; the method of accounting and payment between the Government and the railroad companies is conducted in the same way between aided lines and non-aided lines; by aided lines, I mean lines aided, like the Southern Pacific by grant of lands and not of subsidy bonds; for lines subsidized by bonds a different method is adopted.

Q. When was that judgment rendered in the court of claims for a million and odd dollars.

A. It was affirmed by the Supreme Court within a year, but I cannot give the date from recollection.

Q. Was it not affirmed by the Supreme Court of the District of Columbia?

A. Oh, I am mistaken about that; it was not appealed on the part of the Government from the court of claims.

Mr. REDDING.—Judgment was rendered last January, I believe.

The WITNESS.—I can give you the reference.

Mr. CALL.—Oh, it is not important.

Q. Under what provision of law was that suit brought?

A. I understand under the same provisions of law that any common carrier would bring a suit for transportation services to the Government, simply that the services had been performed and the compensation was due.

Q. I thought you said that when the rates were fixed by the contract that there was no remedy for the railroad company if it disputed the adequacy of the amount; please explain how that is.

A. I have stated that I did not know that any portion of this judgment, of the amount involved in the suit, had reference to transportation over the lines of the Southern Pacific Railroad, and that upon those lines the 80 per cent was allowed for transportation of the mails under the act of Congress, the granting act; that in the suit, and the amount involved in the suit in question, there were, as I understand it, no claims for transportation on that line; I am very sure there was no claim for transportation for disputed amounts of any kind.

Q. How does the amount allowed to the Southern Pacific Railroad under contract compare with the amounts allowed in eastern States?

A. For the portion of the line which has received a grant of lands the Government paid 80 per cent for the transportation of mails of the rates allowed for similar service performed by roads in the eastern States.

Q. Is the rate from Chicago to Mississippi Valley States 20 per cent added to what is paid the Southern Pacific, or is it less than that?

A. I will explain my statement a little more clearly by saying that in the transportation of the mails for the

United States, compensation is fixed by law and is determined upon the weights of mails carried; the law applies to all railroads in the United States; a special act applying to the land grant line of the Southern Pacific Railroad provides that the Government may fix the rates for the transportation of mails of the Southern Pacific road——

Mr. CALL.—(Interrupting.) The postmaster general?

The WITNESS. The Government.

A. (Continuing.) And the Government subsequently, by an act of Congress, did fix the rates at 80 per cent for the transportation of mails of those which are provided by the general law prescribing the rates which shall apply to all railroads in the United States, so that the Southern Pacific Railroad receives but 80 per cent of the amount which roads in the eastern States receive for the transportation of mails where they perform a similar amount of service.

G. L. LANSING.

Exhibit Before the Special Examiner "M."

This agreement, made this 10th day of February, 1885, between the Southern Pacific Company, a corporation duly organized and existing under the laws of the State of Kentucky, and the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of the United States and the State of California, the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of the territory of Arizona, the Southern Pacific Railroad Company, a corporation duly organized and existing under the laws of

the territory of New Mexico, the Galveston, Harrisburg and San Antonio Railway Company, a corporation duly organized and existing under the laws of the State of Texas, the Texas and New Orleans Railroad Company, of 1874, a corporation duly organized and existing under the laws of the State of Texas, the Louisiana Western Railroad Company, a corporation duly organized and existing under the laws of the State of Louisiana, Morgan's Louisiana and Texas Railroad and Steamship Company, a corporation duly organized and existing under the laws of the State of Louisiana, and the Mexican International Railroad Company, a corporation duly organized and existing under the laws of the State of Connecticut, witnesseth:

I.

That the said Southern Pacific Railroad Company, organized and existing under the laws of the United States and the State of California, hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the date hereof, all of its railroad situated in the State of California, known and designated as the Southern Pacific Railroad of California, with all its branches and all railroads now leased by it, together with the rolling-stock, telegraph lines, tools and property of every kind and nature whatsoever, now in use upon or in connection with said railroads, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use and operate the said property, and to receive the rents, issues and profits thereof.

II.

That the said Southern Pacific Railroad Company, organized and existing under the laws of the territory of Arizona, hereby leases to the said Southern Pacific Company, for the term of ninety-nine years from the date hereof, all of its railroads situated in the territory of Arizona, and known and designated as the Southern Pacific Railroad of Arizona, together with all its branches and all the rolling stock, telegraph lines, tools, and property of every kind and nature whatsoever, now in use upon or in connection with said railroads or branches, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use and operate the said property, and to receive the rents, issues and profits thereof.

III.

That the said Southern Pacific Railroad Company, organized and existing under the laws of the territory of New Mexico, hereby leases to the said Southern Pacific Company, for the term of ninety-nine years from the date hereof, all of its railroad situated in the territory of New Mexico, and known and designated as the Southern Pacific Railroad of New Mexico, together with all its branches and all the rolling stock, telegraph lines, tools and property of every kind and nature whatsoever now in use upon or in connection with said railroad or its branches, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use

and operate the said property, and to receive the rents, issues and profits thereof.

IV.

That the said Galveston, Harrisburg and San Antonio Railway Company hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the date hereof, all of its railroad situated in the State of Texas and known and designated as the Galveston, Harrisburg and San Antonio Railway, with all its branches and all the rolling stock, telegraph lines, tools and property of every kind and nature whatsoever now in use upon or in connection with said railroad or its branches, and together with all the appurtenances thereunto belonging, and all other property now owned, held and possessed by it, with the right to possess, maintain, use and operate the said property, and to receive the rents, issues and profits thereof.

V.

That the said Texas and New Orleans Railroad Company, of 1874, hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the date hereof, all of its railroad situated in the State of Texas, and known and designated as the Texas and New Orleans Railroad, of 1874, together with all its branches and all the rolling stock, telegraph lines, tools and property of every kind and nature whatsoever, now in use upon or in connection with said railroad or branches, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use and operate the said property, and to receive the rents, issues and profits thereof.

VI.

That the said Louisiana Western Railroad Company hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the date hereof, all of its railroad situated in the States of Texas and Louisiana, and known and designated as the Louisiana Western Railroad, together with all its branches and all the rolling stock, telegraph lines, tools and property of every kind and nature whatsoever now in use upon or in connection with said railroad or branches, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use and operate the said property, and to receive the rents, issues and profits thereof.

VII.

That the said Morgan's Louisiana and Texas Railroad and Steamship Company hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the date hereof, its railroad situated in the State of Louisiana, and known and designated as the Morgan's Louisiana and Texas Railroad, all the branches thereof, and the rolling stock, telegraph lines, tools and property of every kind and nature whatsoever now in use upon or in connection with said railroad and branches, and together with all the appurtenances thereunto belonging; also all the steamships, steamboats, tugs, wharves, piers, landings, depots, buildings and all other property, real and personal, now owned, held or possessed by the said Morgan's Louisiana and Texas Railroad and Steamship Company; with the right to possess, maintain, use and

operate the said property, and to receive the rents, issues and profits thereof.

VIII.

That the said Mexican International Railroad Company hereby leases to the said Southern Pacific Company for the term of ninety-nine years from the date hereof, all of its railroad and the branches thereof situated in the Republic of Mexico, known and designated as the Mexican International Railroad, together with all its branches and the rolling stock, telegraph lines, tools and property of every kind and nature whatsoever now in use upon or in connection with said railroad, and together with all the appurtenances thereunto belonging, with the right to possess, maintain, use and operate the said property, and to receive the rents, issues and profits thereof.

In consideration of the leases aforesaid, the said Southern Pacific Company agrees to and with the other corporations, parties hereto, that it will keep the said leased property in good order, condition and repair; operate, maintain, add to and better the same at its own expense; pay all taxes legally assessed against or levied thereon; and will, upon the termination of this lease, return the same to the respective parties from which it was leased, or to their successors, with additions and betterments, in as good condition and repair as the same was at the date hereof.

That it hereby assumes and will discharge all the liabilities and obligations of every kind of the said railroad companies, and each of them, except the obligations to pay the principal of their indebtedness, known as the

bonded indebtedness, now outstanding and secured by mortgage or deed of trust, or which may hereafter be incurred by either of said companies under the provisions of any existing mortgage or deed of trust, or any mortgage or deed of trust hereafter, with the consent of this company made. That as to such bonded indebtedness, it will pay off and discharge at maturity the interest upon the same, and will upon demand of either of said railroad companies guarantee in such form as said company may require, the payment of the principal and interest thereof.

That said Southern Pacific Company will annually, on the first day of May, pay the following named railroad companies as rental, a sum equal to ninety-three and one-twelfth (93 1-12) per cent of its net profits—if any net profits there be—for the year ending on the thirty-first day of December next preceding that date, as follows:

To the said Southern Pacific Railroad Company, existing under the laws of the United States and of the State of California, twenty-six and one-half (26½) per cent of said net profits.

To the said Southern Pacific Railroad Company, existing under the laws of the territory of Arizona, twelve (12) per cent of said net profits.

To the said Southern Pacific Railroad Company, existing under the laws of the territory of New Mexico, four (4) per cent of said net profits.

To the said Galveston, Harrisburg and San Antonio Railway Company, sixteen and one-quarter (16¼) per cent of said net profits.

To the said Texas and New Orleans Railroad Company,

of 1874, seven and one-half (7½) per cent of said net profits.

To the said Louisiana Western Railroad Company, three and one-third (3 1-3) per cent of said net profits.

To the said Morgan's Louisiana and Texas Railroad and Steamship Company, twenty-two and one-half (22½) per cent of said net profits.

To the said Mexican International Railroad Company, one (1) per cent of said net profits.

The term net profits as used herein shall be construed to mean the moneys on hand available for dividends after all expenses, payments and disbursements of every nature and kind of the said Southern Pacific Company—except for the rental of railroads now or hereafter leased by said company—have been deducted.

In testimony whereof, the parties hereto have caused these presents to be signed by their respective presidents and countersigned by their secretaries, and their corporate seals to be hereunto affixed, pursuant to orders of their respective boards of directors, on the day and year herein written. In octuple.

[Seal] W. E. BROWN,
President Southern Pacific Company.

H. C. NASH,
Secretary Southern Pacific Company.

[Seal] CHAS. CROCKER,
President Southern Pacific Railroad Company.

J. L. WILLCUTT,
Secretary Southern Pacific Railroad Company.

[Seal] CHAS. F. CROCKER,
President Southern Pacific Railroad Company.

F. S. DOUTY,

Secretary Southern Pacific Railroad Company.

[Seal] CHAS. F. CROCKER,

President Southern Pacific Railroad Company.

GEO. E. GRAY,

Secretary Southern Pacific Railroad Company.

[Seal] T. W. PIERCE,

President Galveston, Harrisburg and San Antonio Railway Company.

CHAS. BABBIDGE,

Asst. Secretary Galveston, Harrisburg and San Antonio Railway Company.

[Seal] C. P. HUNTINGTON,

President Texas and New Orleans Railroad Company, of 1874.

I. E. GATES,

Secretary Texas and New Orleans Railroad Company, of 1874.

[Seal] C. P. HUNTINGTON,

President Louisiana Western Railroad Company.

I. E. GATES,

Secretary Louisiana Western Railroad Company.

[Seal] A. C. HUTCHINSON,

President Morgan's Louisiana and Texas Railroad and Steamship Company.

J. B. RICHARDSON,

Secretary Morgan's Louisiana and Texas Railroad and Steamship Company.

[Seal] C. P. HUNTINGTON,

President Mexican International Railroad Company.

F. H. DAVIS,

Secretary Mexican International Railroad Company.

[Endorsed]: Agreement Sou. Pac. Company and S. P. R. R. of California, S. P. R. R. of Arizona S. P. R. R. of N. Mexico, G. Harris. & S. Anto. Ry., Texas & N. Orleans R. R., Louisiana Westn. R. R., Morgan's L. & T. R. R. & S. S. Co., Mexican International R. R. Dated February 10, 1885. (Sou. Pac. Compy. No. 3 Documents.)

(Marked "Exhibit before the Special Examiner 'M.' Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing document with the original, and find it to be a full, true, and correct copy thereof.

San Francisco, Oct. 14, 1893.

STEPHEN POTTER,

Special Examiner.

[Endorsed]: Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Testimony of CHARLES F. CROCKER.

CHARLES F. CROCKER, called as a witness on behalf of the defendants, being duly sworn, testified as follows, said testimony being taken on September 14th, 1893, and inserted at this point in the record for convenience in signing.

Direct Examination.

Mr. REDDING.—Q. Are you an officer of the Southern Pacific Railroad Company? A. I am.

Q. What office do you hold in that company?

A. President.

Q. How long have you been president of the company?

A. At least five years.

Q. Were you an officer of the company other than president prior to that time?

A. I was one of the vice-presidents.

Q. How long have you been an officer of the company and connected with it, covering what period of years?

A. A director or executive officer for from ten to twelve years.

Q. The title to this suit is the United States of America against the Southern Pacific Railroad Company and others, and the suit involves a land grant made by Congress to the Southern Pacific Railroad Company, dated March 3d, 1871, extending from Tehachapi, by way of Los Angeles, to Fort Yuma; is that the company of which you are president of which you are speaking?

A. It is.

Q. Do you know whether or not the identity of the Southern Pacific Railroad Company has been changed, or whether the company itself has been changed by any of its articles of amalgamation and consolidation which it has filed during the last twenty years, or whether it has been the intention of the officers of the company to maintain the same corporation and the same identity?

(Question objected to by Mr. Call as incompetent, immaterial, and irrelevant, and not the best evidence, and as involving a conclusion of law.)

A. The identity and character of the Southern Pacific Railroad Company of California was preserved in the

amalgamation and proceedings which have been held during my term of office as a director and executive officer in that company; I personally instructed the officers of the law department who prepared the papers in the proceeding which were had in 1888, at the time various corporations were amalgamated into the Southern Pacific Railroad of California—

Mr. REDDING.—(Interrupting.) That is the defendant in this action, the Southern Pacific Railroad Company?

The WITNESS.—Yes, sir; the company to which the United States Government granted certain sections of land.

A. (Continuing.) To preserve the character and identity of that corporation; it was reported to me that the law permitted that to be done, and they were instructed to proceed upon that line.

Q. Do you know as a fact whether or not there was an intention on the part of the directors of the Southern Pacific Railroad Company, and the executive officers, and those in authority, to preserve the identity and same character of the Southern Pacific Railroad Company to which Congress made this land grant, or otherwise?

(Question objected to by Mr. Call, as incompetent, immaterial, and irrelevant, and not the best evidence, and as calling for a conclusion of law, and upon the further ground that the intentions of the several companies amalgamating can be gathered and shown only by the proceedings had upon consolidation and by the written evidence of the amalgamation of the roads.)

A. It was intended to preserve the identity and character of the Southern Pacific Railroad Company of California as it existed previous to that amalgamation, and the legal officers of the company were instructed to prepare the papers accordingly.

Q. Were you present at the conferences of the directors of the company anterior to taking in these other corporations.

(Same objection.)

A. I was present.

Q. Did you take part in the proceedings?

(Same objection.)

A. I did.

Q. Will you state whether or not you gave your own views at those meetings as to what you wanted done as an officer and a director of the company?

(Same objection.)

A. I did, according to my answers already given to these questions.

Q. Do you know whether or not the land department of the Southern Pacific Railroad Company has remained the same ever since its inception, so far as referring to one land grant and one corporation, or whether it has been changed?

(Same objection.)

A. It has remained the same.

Q. Were you an officer of the company, or in anywise connected with it during the period when prior amalgamations were made, for instance the one of 1873?

(Same objection.)

A. I was not.

Cross-Examination.

Mr. CALL.—Q. Were you an officer of the company, that is, a general officer, at the time of the amalgamation of 1874? A. No, sir; I was not.

CHAS. F. CROCKER.

Plaintiffs' Exhibit No. 40.

M. N. (4-207a.) W. J. M.

F.

Department of the Interior,

General Land Office,

Washington, D. C., October 7th, 1893.

I, S. W. Lamoreux, commissioner of the general land office, do hereby certify that the annexed map is a true and literal exemplification of the one filed in this department by the president of the Southern Pacific Railroad Company, and transmitted to this office with departmental letter dated April 3, 1871, a true copy of which is attached hereto, and that both of said copies are now on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] S. W. LAMOREUX,

Commissioner of General Landoffice.

Jno. B. B.

Department of the Interior,

Washington, D. C., April 3d, 1871.

Sir: The 23d section of the act to incorporate the Texas Pacific Railroad and for other purposes, affirmed March 3d, 1871, authorizes "the Southern Pacific Railroad Company to construct a line of railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river," with the same rights and privileges, and subject to the same limitations and restrictions, as were granted to said Southern Pacific Railroad Company of California, by the act of July 27, 1866.

The accompanying map designating the route of said soad from Tehachapi Pass, by way of Los Angeles, to the Colorado river, has been filed by Charles Crocker, Esq., president of the company, with a request that the lands may be withdrawn, as provided in the 12th section of said act, "from pre-emption, private entry and sale."

You will issue the necessary order for a withdrawal of the lands, within twenty miles, and along the route designated on said map.

Very respectfully,

Your obt. servant,

WALTER H. SMITH,

Acting Secretary.

Hon. Willis Drummond, Commissioner of the General Landoffice.

[Endorsed]: U. S. Cir. Court, Southern District California. United States vs. S. P. R. R. Co. 184. Master's and Examiner's Exhibit No. 45. E. H. Lamme, Master and Examiner in Chancery. For Complainant. Filed Feb. 23, 1894. Wm. M. Van Dyke, Clerk. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al. No. 600. Plaintiffs' Exhibit No. 40. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

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Exhibit "R."

(Referred to in the Answer of the Southern Pacific Railroad Company.)

F. (4—207a.) M. J. D.
W. C. E.

(Case 68. Before the Master in Chancery. Stipulated Exhibit "C." J. H. C. J. D. R.)

Department of the Interior,

General Land Office,

Washington, October 25, 1889.

I, Lewis A. Groff, commissioner of the general land-office, do hereby certify that the annexed copy of a letter dated April 21, 1871, and addressed to the register and receiver, Los Angeles, California, is a true and literal exemplification of the original letter of record in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[Seal] LEWIS A. GROFF,
Commissioner of General Landoffice.

Department of the Interior,

General Landoffice,

April 21st, 1871.

Register and Receiver, Los Angeles, California.

Gentlemen: By act of March 3d, 1871, sec. 23, the Southern Pacific Railroad Co. is authorized to construct

a railroad from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river with the same grant of lands, etc., as were granted to said company by act of July 27, 1866.

The company having filed a diagram designating the general route of said road, I herewith transmit a map showing thereon the line of route, as also the 20 and 30 mile limits of the grant to the line of withdrawal for the Southern Pacific Railroad under the act of 1866, and you are hereby directed to withhold from sale or location, pre-emption or homestead entry all the odd-numbered sections falling within those limits.

The even-numbered sections within the limit of 20 miles you will increase in price to $2.50 per acre, and will dispose of them at that price, but only under the pre-emption and homestead laws.

When pre-emption or homestead entries may have had legal inception prior to the receipt of this order, the settlers may of course prove their claims either upon odd or even numbered sections at the rate of $1.25 per acre.

This order will take effect from the date of its receipt by you, and you will please acknowledge receipt by date.

The even-numbered sections between the 20 and 30 mile or indemnity limits are not affected by this order.

Very respectfully,

WILLIS DRUMMOND,
Commissioner.

[Endorsed]: U. S. Circuit Court, Southern Dist. of Cal. United States vs. S. P. R. R. Co. No. 68. Master's Exhibit 132. Filed March 20. Chas. L. Batcheller, Master

and Examiner in Chancery. 23, E. H. L. Plaintiffs' Exhibit No. 24. E. H. Lamme, Examiner. U. S. Cir. Court, Southern District California. S. P. R. R. Co. vs. Hutton, et al., 305. Examiner's Exhibit No. 23. E. H. Lamme, Master and Examiner in Chancery. Filed Dec. 30th, 1889. Wm. M. Van Dyke, Clerk. By E. H. Owen, Deputy. U. S. Circuit Court, 9th Circuit, So. Dist. of Cal. U. S. vs. S. P. R. R. Co. et al., No. 600. Plaintiffs' Exhibit No. 27. Leo Longley, Special Examiner. Filed Nov. 19, 1895. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 65.

Department of the Interior,

Washington, D. C., April 3d, 1871.

Sir: The map received with your letter of the 22nd ultimo, showing the route of the Southern Pacific Railroad "from a point at or near Tehachapi Pass, by way of Los Angeles, to the Texas Pacific Railroad at or near the Colorado river," has been sent to the commissioner of the general landoffice, with directions to withdraw the lands as provided in the 12th section of the act to incorporate said Texas Pacific Railroad, approved March 3d, 1871.

Very respectfully,

Your obt. servant,

WALTER H. SMITH,

Acting Secretary.

Charles Crocker, Esq., Pres. Southern Pac. R. R. Co., 54 William St., N. Y.

[Endorsed]: Walter H. Smith, acting secretary, Washington, April 3, 1871. Map sent to commissioner with direction to withdraw certain lands.

(Marked "Defendants' Exhibit before the Special Examiner No. 65, Stephen Potter, Special Examiner.")

I hereby certify that I have compared the foregoing instrument with the original, and find it to be a full, true, and correct copy thereof.

STEPHEN POTTER,
Special Examiner.

San Francisco, Sept. 30th, 1893.

[Endorsed]: Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit No. 12.

Copy of Resolution of the Board of Directors of the Southern Pacific Railroad Company.

Resolved, that this company will and does hereby accept the terms, conditions, and impositions of the act of Congress of the United States, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road and for other purposes," approved March 3d, 1871, and that a copy of this resolution of acceptance, certified under the seal of this company be forwarded to and filed with the secretary of the interior.

I, J. L. Willcutt, secretary of the Southern Pacific Railroad Company, hereby certify that the foregoing is a true and correct copy of a resolution adopted at a meeting of the board of directors of the Southern Pacific Railroad Company held at the office of the company in the city and

county of San Francisco, State of California, on the 16th day of May, 1871, as the same appears on the records of said company.

Witness my hand and the corporate seal of said company the 6th day of July, 1895.

[Seal] J. L. WILLCUTT,
Secretary Southern Pacific Company.

I certify that I have compared the foregoing copy of a resolution of the board of directors of the Southern Pacific Railroad Company, marked by me "Defendants' Exhibit No. 12," in the case of the United States of America, Complainant, vs. Southern Pacific R. R. Co. et al., Defendants, No. 587, with the original thereof in the possession of the Southern Pacific R. R. Co., and find it to be a full, true and correct copy of same.

San Francisco, July 16th, 1895.

STEPHEN POTTER,
Special Examiner.

[Endorsed]: Defendants' Exhibit No. 12. Stephen Potter, Special Examiner. Filed Feb. 10, 1896. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 29.

M. C. P. (Vignette) A. M.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Sept 30, 1893.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the originals and of the endorsement thereon, on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal] WM. H. SIMS,
Acting Secretary of the Interior.

Los Angeles, California, April, 15, 1874.

To Hon. C. Delano, Secretary of the Interior of the United States of America:

Sir: We the undersigned commissioners of the United States, appointed to examine the first (1st) section of fifty (50) miles of the railroad and telegraph line of the Southern Pacific Railroad Company, authorized by the twenty-third section of the act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3d, 1871, commencing at a point in the northwest quarter (N. W. ¼) of section three (3), township two (2) north, range fifteen (15) west, San Bernardino base and meridian, running thence in a southeasterly direction to the city of Los Angeles, and thence in an easterly direction, and ending at the termination of the fiftieth (50) mile therefrom, at a point in the northeast quarter (N. E. ¼) of section twenty-seven (27), township one (1) south, range nine (9) west, San Bernardino base and meridian:

(Note.—The affidavit, Feby. 16th, 1874, of C. P. Huntington, president of the Southern Pacific R. R. Co., of the completion of this section of 50 miles of railroad, contains a clerical error, in that it describes incorrectly the

exact quarter section of public land in which the points of commencement and termination are situated. The particular sections of land in which these points exist are given herein correctly. The difference in the description was caused by a difficulty in connecting the line of the road with the U. S. surveys.)

Certify that we have carefully examined such section, and that the alignment and grades are as represented on the accompanying map and profile, and are such as, in view of the capabilities of the ground, the Government should accept as first class.

That in this distance, fifty (50) miles, there are:

20,141	feet of level line.
8,500	feet of grades, 0 to 5 feet per mile.
20,500	feet of grades, 5 to 10 feet per mile.
17,103	feet of grades, 10 to 15 feet per mile.
18,900	feet of grades, 15 to 20 feet per mile.
11,700	feet of grades, 20 to 25 feet per mile.
18,690	feet of grades, 25 to 30 feet per mile.
22,300	feet of grades, 30 to 35 feet per mile.
13,944.6-10	feet of grades, 35 to 40 feet per mile.
15,800	feet of grades, 40 to 45 feet per mile.
26,100	feet of grades, 45 to 50 feet per mile.
26.721.4.10	feet of grades, 50 to 55 feet per mile.
20,000	feet of grades, 55 to 60 feet per mile.
4,400	feet of grades, 60 to 65 feet per mile.
13,800	feet of grades, 65 to 70 feet per mile.
5,400	feet of grades, 72 23-100 feet per mile.

Total, 264,000 feet, or fifty (50) miles.

Maximum grade, 72.23 feet per mile.

That also in this distance of fifty (50) miles there are:

197,470.5-10 feet of straight line.
361.4-10 feet of curve of 18′.
17,215 feet of curve of 20′.
8,720 feet of curve of 30′.
9,680 feet of curve of 40′.
5,220 feet of curve of 50′.
10,102 feet of curve of 1°.
1,575 feet of curve of 1° 20′.
1,744.6-10 feet of curve of 1° 30′.
3,872.4-10 feet of curve of 2° 00′.
200 feet of curve of 3° 00′.
3,972.5-10 feet of curve of 4° 00′.
400 feet of curve of 4° 30′.
1,331.6-10 feet of curve of 5° 00′.
2,131 feet of curve of 6° 00′.

264,000 feet or over fifty (50) miles.
Radius, 955.4-10 feet.

That all the iron is of American manufacture and of the best quality, and that the road is of the gauge of four feet eight and one-half inches (4 ft. 8½ in.); that the rails weigh not less than fifty-six (56) pounds per lineal yard, and the joints are made with fish plates, and that all the rails are fastened with four spikes to each tie; that there are seven (7) sidings having an aggregate length of 12,642 feet, connected with the main track at each end with good switches; that there are two turntable tracks having an aggregate length of 546 feet, connected with the main

track with good switches; that there are 2,450 ties per mile, of redwood or red cedar timber, in all cases at least 6 x 8 inches by 8 feet long. (The crossties are in the aggregate over eight inches wide and make a bearing surface equal to at least 2,640 ties per mile); that the said section is ballasted with sand, gravel, and loam, of which the roadbed is composed, no other materials being found within many miles of the line of the railroad. When more suitable material shall be found within a reasonable distance, we have the assurance of the officers that the road will, if necessary, be reballasted.

That the excavations and embankments are in strict conformity to the requirements of law and the instructions.

That there are seventeen (17) bridges all built on pile foundations, as follows:

1 bridge	1,001.7-10	feet long,	63 spans,	15.9-10	each.
1 bridge	795	feet long,	50 spans,	15.9-10	each.
1 bridge	556.5-10	feet long,	35 spans,	15.9-10	each.
1 bridge	331.8-10	feet long,	21 spans,	15.8-10	each.
2 bridges	190.8-10	feet long,	12 spans,	15.9-10	each.
2 bridges	95.4-10	feet long,	6 spans,	15.9-10	each.
5 bridges	48	feet long,	3 spans,	16	each.
3 bridges	32	feet long,	2 spans,	16	each.
1 bridge	16	feet long,	1 span,	16	each.

Total, 17 bridges.

That there are one hundred and sixteen (116) culverts as follows:

43 culverts,	1 x 1	feet, box.
5 culverts,	1 x 1½	feet, open.
1 culvert,	1 x 1½	feet, box.
2 culverts,	1 x 2	feet, open.
1 culvert,	1 x 2	feet, box.
1 culvert,	1 x 2½	feet, box.
27 culverts,	2 x 2	feet, box.
16 culverts,	2 x 3	feet, box.
4 culverts,	3 x 3	feet, box.
5 culverts,	3 x 4	feet, box.
3 culverts,,	4 x 4	feet, box.
1 culvert,	4 x 6	feet, box.
5 culverts,	6 x 6	feet, box.
1 culvert,	6	feet, open.
1 culvert,	10	feet, open.
Total,	116 culverts.	

No stone suitable for building purposes could be found within a distance of ten (10) miles of the railroad. The material used in the construction of the trestle bridges, culverts, and bridge abutments is the most durable the country can afford, being the black or coast redwood or red cedar (the same used for ties), well known on the Pacific coast and universally sought after on account of its great durability and resistance to decay.

We have, however, the assurances of the managers and directors that the culverts and bridge abutments will be

rebuilt in stone when and as the same may become necessary, and suitable material can be found within a reasonable distance of the line of road.

No wood or coal houses have been built and they do not seem to be necessary. A permanent arrangement has, notwithstanding, been made by the Southern Pacific Railroad Company with the Los Angeles and San Pedro Railroad Company for the full use of the fuel houses at Los Angeles owned by the latter company. They are large enough for all the fuel required at present by both roads. The dryness of the atmosphere, there being but a very light rainfall in winter with no rain in summer, and the extreme mildness of the climate, render the use of covering for fuel entirely unnecessary. If, however, other fuel houses shall be hereafter found requisite, the officers promise that they shall be built immediately.

That at San Fernando there is one passenger and freight-house combined, 78 x 20 feet, sided with planed lumber and covered with shingles. On each side of the building there are platforms 8 feet wide.

That there is one turntable at San Fernando with 273 feet of track, connected at one end by switch with the main track.

That there is at San Fernando one water-tank of 18,000 gallons capacity, supplied from a well by a Hooker pump.

That there is at San Fernando 1,046 feet of side track, connected at both ends with good switches to the main track.

That there are at Sepulveda, 13 miles from San Fernando, 10 acres of land for depot purposes. The officers

of the road say that whenever business shall require side tracks or buildings they will be constructed.

That there are at Los Angeles 1,125 feet of side track, connected at both ends by good switches with the main track. Also, 7,550.4-10 feet of side track, connecting by good switches the main line with the passenger and freight depots of the San Pedro and Los Angeles Railroad. Also, 220.6-10 feet of side track, connecting by good switches the main line with an engine-house which the Southern Pacific Railroad Company has constructed on a 50-acre tract provided for large engine and repair shops when they shall become necessary.

That there are 65 acres of land for depots and machine shops. A permanent arrangement has been made and perfected whereby the Southern Pacific Railroad Company has the full use of the passenger and freight depots of the San Pedro and Los Angeles Railroad Company. The road owned by this company consists of a main line of 20 miles from Los Angeles to Wilmington, on the Pacific Ocean, and a branch line to Anaheim, 7 miles of which is constructed. It is run in connection with the section of 50 miles of railroad under examination. These passenger and freight depots are large, well built, and commodious buildings, and are much more than sufficient to give the fullest accommodations for all the travel and commerce of both roads for many years. The officers promise that if business should increase to such an extent as to require more ample accommodations other buildings will, when needed, be immediately erected on the 65 acres before mentioned.

That at San Gabriel there is one passenger and freight house combined; 40 x 20 feet, sided with planed lumber and covered with shingles. On each side of the buildings there are platforms 8 feet wide.

That at San Gabriel there is a side track 827 feet long, connected at both ends with good switches to the main track.

That there is at Lexington one passenger and freight house combined, 24 x 16 feet, sided with planed lumber and covered with shingles. On each side of the building there are platforms 8 feet wide.

That at Lexington there is a side track 827 feet long, connected at both ends with good switches to the main track.

That at Spadra there is one passenger and freight house combined, 78 x 20 feet, sided with planed lumber and covered with shingles. On each side of the building there are platforms 8 feet wide.

That at Spadra there is one turntable with 273 feet of side track.

That at Spadra there are 1,046 feet of side track, connected at both ends with good switches with main track.

That at Spadra there is a water-tank of 18,000 gallons capacity, supplied from a well by a Hooker pump.

That there are no section-houses erected, the hotel and farm-houses which are found along the line of the road affording ample accommodation for all the workmen employed.

That no locomotive stall, machine, or repair shops have been built, permanent arrangements have been made

with the Los Angeles and San Pedro Railroad Company for the use of its machine and repair shops, etc. These we deem sufficient for the work of both roads at present. We are informed by the officers of the company that it is the intention, as soon as enough of the railroad shall be built from which to form a division of any considerable length, to construct permanent machine and repair shops in the most substantial and durable manner, and if, in the meanwhile, additional facilities should be required for repairs or otherwise they shall be supplied promptly.

The Southern Pacific Railroad Company owns the following locomotives and cars, which are now used on this portion of its line:

Locomotives.

No.	Diam. of Wheels.		Size of cylinder	Name of Makers.
	ft.	in.		
1	4	8	17 in.	Central Pacific R. R. Co., Sacramento, Cal.
2	5	2	14 "	McQueen, Schenectady, New York.
3	5	2	12 "	" " "
4	5	2	12 "	" " "
5	5	2	9 "	Vulcan Iron Works, San Francisco.

Cars.

2 passenger cars.
2 passenger and caboose cars.
13 platform cars.
2 dump cars.
1 smoking car.
1 baggage and express car.
7 box freight cars.
12 section cars.

Total, 70 cars.

The above locomotives and cars are more than sufficient for present business and requirements, and no more will be needed for some considerable time to come.

The road traverses a section thinly settled by a population that has hardly any commerce, and in consequence business must necessarily be, for a time, very limited and unprofitable. As the road advances it is hoped that immigration will be attracted and the resources and commerce of the country will be developed to such an extent that when, eventually, connection shall be made with the main line from the eastern States there will be enough of freight and travel to establish at least a paying business.

The directors say that when and as the same shall become necessary, an ample supply of first-class rolling stock and other appurtenances will be promptly provided.

That said section of fifty (50) miles of railroad, and the telegraph line connected therewith, or any part thereof, has not been constructed "on the line of any other rail-

road route to aid in the construction of which lands have heretofore (prior to July 27, 1866) been granted by the United States."

That this section of railroad and telegraph line was completed and equipped previous to the 3d day of March, 1874, and both are first-class.

That the telegraph line is constructed as follows: Not less than 30 redwood poles to the mile; size at bottom, 8 x 8 inches; at top, 4 x 5 inches; length, 24 feet. They are set to a depth of four feet in the ground. Number 9 galvanized wire is used. The office instruments are of the very best quality and of the most improved style, and are furnished by the best manufacturers.

We respectfully recommend the acceptance by the Government of the section of fifty (50) miles of railroad and telegraph line hereinbefore described.

We also report and certify that the deficiencies in the ballasting of the Southern Pacific Railroad which existed at the time of the several examinations of said roads by the United States railroad commission have been supplied, and that the entire line throughout is now ballasted in a first-class manner and the roadway is in an excellent condition and repair.

Respectfully submitted,

LEWIS M. FOULKE,
CALVIN BROWN,
EUGENE L. SULLIVAN,
U. S. Railroad Commissioners.

State of California,
County of Los Angeles. } ss.

Lewis M. Foulke, Calvin Brown, and Eugene L. Sullivan, being duly sworn, severally each for himself, says that he is the United States railroad commissioner, and that the matters and things set forth in the foregoing statement by him subscribed are true and correct.

LEWIS M. FOULKE,
CALVIN BROWN,
EUGENE L. SULLIVAN.

Subscribed and sworn to before me, Ygnacio Sepulvedo, a Judge of the District Court of the 17th Judicial District of the State of California, in and for the county of Los Angeles, this 15 day of April, A D. 1874, said court being a court of record.

YGNACIO SEPULVEDA,
District Judge of the Court aforesaid.

I hereby certify that Ygnacio Sepulveda is the acting Judge of said court; that I am well acquainted with his handwriting and that the signature to the above and foregoing affidavit is his genuine signature.

Witness my hand and the seal of said court this 15th day of April, A. D. 1874.

[Seal] ANDREW W. POTTS,
County Clerk in and for the said county of Los Angeles and ex officio Clerk of the District Court of the 17th Judicial District, in and for said County of Los Angeles.

Department of the Interior,

Washington, D. C., 8th May, 1874.

Sir: I have the honor to submit herewith for your action the report, dated 15th ultimo, of Messrs. Foulke, Brown & Sullivan, appointed by you to examine and report upon the Southern Pacific Railroad and Telegraph line. They have examined the 50 miles of road, etc., commencing at a point in the N. W. ¼, section 3, township 2 N., range 15 west, San Bernardino base and meridian, running thence in a southeasterly direction to the city of Los Angeles, and thence in an easterly direction, ending at the termination of the 50th mile therefrom, at a point in the N. E. ¼, section 27, township 1 S., range 9 W., same base and meridian.

The commissioners in their report represent (with exception of a few defects which the company promise to remedy hereafter) that this portion of road is completed and equipped as a first-class railroad; and that the telegraph line is finished for the same distance, and is first class. I therefore respectfully recommend the acceptance of the same, and the issue to said company of patents for lands due on account of the construction thereof, agreeably to the provisions of the "act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Coast," approved 27 July, 1866, and the acts amendatory thereof, approved 25 July, 1868, and 28th June, 1870.

Very respectfully, your ob't servant,

R. R. COWEN,

Acting Secretary.

To the President.

[Endorsed]: Department of the Interior, 8th May, 1874. R. R. Cowen, acting secretary, submits to the President report of commissioners on 1st section of fifty miles of Southern Pacific R. R. Executive Mansion, May 9th, 1874. The within recommendations are approved.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 29. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 30.

M. C. P. (Vignette) A. M.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Sept. 30, 1893.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the originals, and of the endorsement thereon, on file in this department.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal] WM. H. SIMS,

Acting Secretary of the Interior.

Los Angeles, California, October 21, 1875.

To Hon. Zachariah Chandler, Secretary of the Interior, of the United States of America:

Sir: We, the undersigned commissioners of the United States. appointed to examine the second (2) section of

fifty (50) miles of the railroad and telegraph line of the Southern Pacific Railroad Company, authorized by the twenty-third section of the act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3d, 1871, commencing at the termination of section number one (1) of said railroad, at a point in the northeast quarter (N. E. ¼) of section twenty-seven (27), township one (1) south, range nine (9) west, San Bernardino base and meridian, and running thence in a southeasterly direction fifty (50) miles, to a point in the southwest quarter (S. W. ¼) of section four (4), township three (3) south, range one (1) west, San Bernardino base and meridian, certify that we have carefully examined such section, and that the alignment and grades are as represented on the accompanying map and profile, and are such as, in view of the capabilities of the ground, the Government should accept as first class.

That in this distance (50) miles there are:

16,700 feet of level line.
4,900 feet of grades, 0 to 5 feet per mile.
30,900 feet of grades, 5 to 10 feet per mile.
6,600 feet of grades, 10 to 15 feet per mile.
18,500 feet of grades, 15 to 20 feet per mile.
21,400 feet of grades, 20 to 25 feet per mile.
10,400 feet of grades, 25 to 30 feet per mile.
22,100 feet of grades, 30 to 35 feet per mile.
4,000 feet of grades, 35 to 40 feet per mile.
3,500 feet of grades, 40 to 45 feet per mile.
10,400 feet of grades, 45 to 50 feet per mile.

11,700 feet of grades, 50 to 55 feet per mile.
12,600 feet of grades, 55 to 60 feet per mile.
13,200 feet of grades, 60 to 65 feet per mile.
8,000 feet of grades, 65 to 70 feet per mile.
7,900 feet of grades, 70 to 75 feet per mile.
17,000 feet of grades, 75 to 80 feet per mile.
12,800 feet of grades, 80 to 85 feet per mile.
6,200 feet of grades, 85 to 90 feet per mile.
13,800 feet of grades, 90 to 95 feet per mile.
8,500 feet of grades, 95 to 100 feet per mile.
2,900 feet of grades, 100 to 103.78 ft. per mile.

Total, 264,000 feet or fifty (50) miles.
Maximum grade, 103.78 feet per mile.

That also in this distance of fifty (50) miles there are:

208,751.6-10 feet of straight line.
6,000 feet of curve 0° 30′.
12,800 feet of curve 1°.
2,655.4-10 feet of curve 1° 30′.
14,190 feet of curve 2°.
6,090 feet of curve 3°.
740 feet of curve 3° 50′.
8,673 feet of curve 4°.
2,800 feet of curve 5°.
1,300 feet of curve 6°.

Total, 264,000 feet, or fifty (50) miles.
Minimum radius, 955 37-100 feet.

That all the iron is of American manufacture and of the best quality, and that the road is of the gauge of four feet eight and one-half inches (4 ft. 8½ in.); that the rails weigh not less than 56 pounds per lineal yard, and the joints are made with fish-plates, and that all the rails are fastened with four spikes to each tie; that there are four sidings having an aggregate length of 5,557.05 feet, each of them connected with the main track at both ends with good switches; that there is one (1) turntable track having a length of 331 feet connected with the main track with a good switch; that there are 2,450 ties per mile of redwood or red cedar timber, in all cases at least 6x8 inches by 8 feet long (the cross-ties are, in the aggregate, over 8 inches wide and make a bearing surface equal to at least 2,640 ties per mile); that the said section is ballasted with sand, gravel, and loam, of which the roadbed is composed, no other material being found within many miles of the line of the railroad.

When more suitable material shall be found within a reasonable distance, we have the assurance of the officers that the road will, if necessary, be reballasted.

That the excavations and embankments are in strict conformity to the requirements of law and the instructions.

That there are twenty (20) bridges, all built on pile foundations, as follows:

1 bridge, 2,624 feet long; 164 spans, 16 feet each.
1 bridge, 160 feet long; 10 spans, 16 feet each.
1 bridge, 128 feet long, 8 spans, 16 feet each.
1 bridge, 112 feet long; 7 spans, 16 feet each.
1 bridge, 64 feet long; 4 spans, 16 feet each.
1 bridge, 48 feet long; 3 spans, 16 feet each.
2 bridges, 32 feet long; 2 spans, 16 feet each.
4 bridges, 16 feet long; 1 span. 16 feet each.
5 bridges, 10 feet long; 1 span, 10 feet each.
3 bridges, 8 feet long; 1 span, 8 feet each.

Total, 20 bridges.

That there are 141 culverts, as follows:

Inches

1 culvert, 6x10 open.
2 culverts, 9x12 open.
3 culverts, 10x12 open.
1 culvert, 10x12 open, with penstock.
1 culvert, 10x24 open.

Feet.

10 culverts, 1 x1 open.
32 culverts, 1 x1 box.
4 culverts, 1 x1½ open.
4 culverts, 1 x2 open.
17 culverts, 1 x2 box.
2 culverts, 1½x2 open.
1 culvert, 2 x2 open.
49 culverts, 2 x2 box.
10 culverts, 3 x3 box.
3 culverts, 3 x3 box.
1 culvert, 3 x4 box.

Total, 141 culverts.

No stone suitable for building purposes could be found within a distance of ten (10) miles of the railroad. The material used in the construction of the trestle bridges, culverts, and bridge abutments is the most durable the country can afford, being the black or coast redwood or red cedar (the same used for ties), well known on the Pacific coast, and universally sought after on account of its great durability and resistance to decay. We have, however, the assurances of the managers and directors that the culverts and bridge abutments will be rebuilt in stone when and as the same may become necessary, and suitable material can be found within a reasonable distance of the line of the road.

No wood or coal houses have been built and they do not seem to be necessary. The dryness of the atmosphere, there being but a very light rainfall in winter, with no rain in summer, and the extreme mildness of the climate, render the use of covering for fuel entirely unnecessary. If, however, fuel houses shall hereafter be found requisite the officers promise that they shall be built immediately.

That at Pomona there are 1,020 feet of side track, connected with the main track at both ends with good switches.

That at Cucamonga there is one platform 8 feet by 24 feet.

That there are two section-houses at Cucamonga, one 18x30 feet, with wing 16x12 feet, and the other 12x16 feet, both sided with lumber, painted, and covered with shingles.

That there are 1,130 feet of side track at Cucamonga, connected with the main track at both ends with good switches.

That there is one water tank of 18,000 gallons capacity at Cucamonga, supplied by gravity from Cucamonga creek.

That at Colton there is one passenger and freight house combined, 32x160 feet, sided with planed lumber, painted and covered with shingles. On each side of the building there are platforms ten feet wide, and at each end platforms twelve feet wide.

That there is at Colton one turntable with 331 feet of track, connected at one end by switch with the main track.

That there is at Colton one water tank of 18,000 gallons capacity supplied from a well by a wndmill.

That there are two section-houses at Colton 12x16 feet, each sided with lumber, painted and covered with shingles.

That there is one coal platform at Colton, 20x40 feet, aggregate length of 3,401.5-10 feet, connected with the main track at both ends with good switches.

The officers inform us that it is the intention of the company to build at Mound City (three miles from Colton station), buildings, platforms, etc., as soon as the necessities of business shall require it.

That at Frinks there is one water-tank of 18,000 gallons capacity, supplied from a well by hand power, to be replaced as soon as possible by windmill.

That no locomotive stalls or engine houses, machine or repair shops have been built on this section. Those at Los Angeles, heretofore, on April 15th, 1874, reported upon, being amply sufficient to meet its present requirements. If others should become necessary the officers inform us they will be built when and as they shall be required.

Beyond Mound City the road passes through a country almost uninhabited. Work on the next section of fifty miles is progressing rapidly. As soon as that section shall be ready for examination and acceptance we are informed by the directors that all facilities as regards buildings, water-tanks, and other erections and structures which may be required for the complete, prompt, and thorough working of the road will be supplied when needed.

The Southern Pacific Railroad Company owns the following locomotives and cars, which are used on this part of its railroad:

Locomotives.

No.	Diam. of Wheels.	Size of cylinder and length of stroke.	Weight.	Name of Makers.
	Inches.		Tons.	
1	56	17 x 24	32	Central Pacific R. R. Co., Sacramento, Cal.
2	62	14 x 22	26	McQueen, Schenectady, New York.
3	62	12 x 22	25	" " "
4	62	12 x 22	25	" " "
5	62	9 x 18	15	Vulcan Iron Works, San Francisco.
19	54	15 x 22	29	McQueen, Schenectady, New York.
21	60	16 x 24	32	" " "
22	60	16 x 24	32	" " "
23	60	16 x 24	32	" " "

Cars.

5 passenger cars.
3 smoking cars.
1 baggage car.
33 box cars.
107 platform cars.
14 hand cars.
1 section car.
3 tracklaying cars.

Total, 167 cars.

The foregoing locomotives and cars are more than sufficient for present business and requirements, and no more will be needed for some considerable time to come.

The road traverses a section of country thinly settled by a population that has hardly any commerce, and in consequence, business must necessarily be, for a time, very limited and unprofitable. As the road advances it is hoped that immigration will be attracted, and the resources and commerce of the country will be developed to such an extent that when, eventually, connection shall be made with the main line from the eastern States there will be enough of freight and travel to establish at least a paying business. The directors say that when and as the same shall become necessary, an ample supply of first-class rolling stock and other appurtenances will be provided.

That said section of fifty miles of railroad and the telegraph line connected therewith, or any part thereof, has not been constructed "on the line of any other railroad route to aid in the construction of which lands have heretofore (prior to July 27, 1866) been granted by the United States."

That this section of railroad and telegraph line are both first class.

That the telegraph line is constructed as follows: Not less than 30 redwood poles to the mile; size at bottom, 8 x 8 inches; at top, 4 x 5 inches; length 24 feet; they are set to a depth of four feet in the ground. Number 9 galvanized wire is used. The office instruments are of the very best quality, of the most improved style, and are furnished by the best manufacturers.

We respectfully recommend the acceptance by the Government of the section of fifty (50) miles of railroad and telegraph line hereinbefore described.

Respectfully submitted.

LEWIS M. FOULKE,
CALVIN BROWN,
EUGENE L. SULLIVAN,
U. S. Railroad Commissioners.

State of California, }
County of Los Angeles. }

Louis M. Foulke, Calvin Brown, and Eugene L. Sullivan, being duly sworn, severally, each for himself, says that he is United States railroad commissioner, and that the matters and things set forth in the foregoing statement, by him subscribed, are true and correct.

LEWIS M. FOULKE.
CALVIN BROWN.
EUGENE L. SULLIVAN.

Subscribed and sworn to before me, Ygnacio Sepulveda, Judge of the District Court of the 17th Judicial District of the State of California, in and for the county of Los Angeles, this 21st day of October, A. D. 1875, said court being a court of record.

YGNACIO SEPULVEDA,
District Judge of the Court aforesaid.

I hereby certify that Ygnacio Sepulveda is the acting Judge of said court; that I am well acquainted with his handwriting, and the signature to the above and foregoing affidavit is his genuine signature.

Witness my hand and the seal of said court, the 22d day of October, A. D. 1875.

[Seal] A. W. POTTS,

County Clerk and ex-officio Clerk of said District Court.

Department of the Interior.

Washington, D. C., 8th Nov., 1875.

Sir: I have the honor to submit herewith for your consideration and, if deemed proper, for your approval, the report under date of the 21st ult. of Messrs. Foulke, Brown & Sullivan, commissioners appointed by you to examine the Southern Pac. R. R. and Telegraph Line of California. They have examined an additional section of 50 miles of the (branch) road and telegraph line authorized by the 23d section of the act of 3d March, 1871 (known as the Texas Pac. R. W. act), to be constructed by the said Southern Pas. R. R. Co. This portion of road commences at the termination of section 1 of said branch, at a point in the northeast quarter of section 27, township 1 south, range 9 west, San Bernardino base and meridian, and runs thence 50 miles to a point in the southwest quarter of section 4, township 3 south, range 1 west, same base and meridian.

The commissioners report this section completed and equipped as a first-class railroad, and the telegraph as also completed and first class.

I therefore respectfully recommend the acceptance of said 2d section of 50 miles of branch road, and the issuance to the company constructing it of patents for lands

due on account of such construction, agreeably to the provisions of law.

Very respectfully,

Z. CHANDLER,

Secretary.

The President.

[Endorsed]: Department of the interior, 8th Nov., 1875. Z. Chandler, Secretary, submits to the President report of commissioners on 2d sec. of branch line, 50 miles, of Southern Pac. R. R. of California. Executive Mansion, Nov. 11, 1875. The within recomendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 30. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Examiner No. 31.

M. C. P. (Vignette.) A. M.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Oct. 2, 1893.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the originals, and of the endorsement thereon on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal] WM. H. SIMS,
Acting Secretary of the Interior.

Def.

Los Angeles, California, June 22, 1876.

To Hon. Zachariah Chandler, Secretary of the Interior, of the United States of America;

Sir: We, the undersigned commissioners of the United States, appointed to examine the third (3) section of fifty (50) miles of the railroad and telegraph line of the Southern Pacific Railroad Company, authorized by the twenty-third (23d) section of the act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of this road, and for other purposes," approved March 3d, 1871, commencing at the termination of section No. two (2) of said railroad, at a point in the southwest quarter (S. W. ¼) of section four (4), township three (3) south, range one (1) west, San Bernardino base and meridian, and running thence in a southeasterly direction fifty (50) miles to a point in the southwest quarter (S. W. ¼) of section twenty-four (24), in township five (5) south, range seven (7) east, San Bernardino base and meridian, certify that we have carefully examined such section, and that the alignment and grades are as represented on the accompanying map and profile, and are such as, in view of the capabilities of the ground, the Government should accept as first class.

That in this distance (50) miles there are:

10,200 feet of level line.			
8,700 feet of grades	0 to	5	feet per mile.
11,400 feet of grades	10 to	15	feet per mile.
12,400 feet of grades	15 to	20	feet per mile.
27,900 feet of grades	20 to	25	feet per mile.
10,500 feet of grades	25 to	30	feet per mile.
8,000 feet of grades	30 to	35	feet per mile.
17,300 feet of grades	35 to	40	feet per mile.
13,450 feet of grades	40 to	45	feet per mile.
5,700 feet of grades	45 to	50	feet per mile.
17,850 feet of grades	50 to	55	feet per mile.
18,000 feet of grades	55 to	60	feet per mile.
8,500 feet of grades	60 to	65	feet per mile.
3,600 feet of grades	65 to	70	feet per mile.
8,800 feet of grades	75 to	80	feet per mile.
5,100 feet of grades	80 to	85	feet per mile.
18,200 feet of grades	85 to	90	feet per mile.
9,400 feet of grades	90 to	95	feet per mile.
10,700 feet of grades	95 to	100	feet per mile.
38,300 feet of grades	100 to	102.96	feet per mile.

Total, 264,000 feet, of fifty (50) miles..

Maximum grade, 102 96-100 feet.

That, also, in this distance of fifty (50) miles, there are:

214,069.3 feet of straight line.
10,500 feet of curve of 0° 30′.
24,800 feet of curve of 1°.
2,000 feet of curve of 1° 30′.
5,450 feet of curve of 2°.
5,150 feet of curve of 3°.
2,030.7 feet of curve of 3° 15′.

Total, 264,000.0 feet or fifty (50) miles.

That of this distance of fifty (50) miles there are 6.17-100 miles laid with iron rails, and 43,83 miles laid with steel rails; that all the iron and steel is of American manufacture and of the best quality, and that the road is of the gauge of four feet eight and one-half inches (4 ft. 8½ in.); that the iron rails weigh not less than fifty-six (56) pounds per lineal yard, and the steel rails weigh not less than fifty (50) pounds per lineal yard; that all the joints are made with fish-plates, and all the rails are fastened with four spikes to each tie; that there are four (4) sidings, having an aggregate length of 4,627 feet, each of them connected with the main track at both ends with good switches, and one siding 957 feet long, connected with the main track at one end with a good switch; that there are three (3) turntable tracks, each 285 feet long, and connected with the main track by means of a good switch; that there are 2,640 ties per mile (or a bearing surface equivalent to that number of ties) of redwood or red cedar timber, 6x8 inches, by 8 feet long; that the said section is ballasted with a superior quality of sand and gravel, of which the roadbed is com-

posed, no better material being found within very many miles of the line of the railroad. When more suitable material shall be found within a reasonable distance we have the assurance of the officers that the road will, if necessary, be reballasted.

That the excavations and embankments are in strict conformity to the requirements of law and the instructions.

That there are forty-four (44) bridges, all built on pile foundation, as follows:

1 bridge	160 feet long,	10 spans	16 feet each.
3 bridges	96 feet long,	6 spans	16 feet each.
1 bridge	64 feet long,	4 spans	16 feet each.
1 bridge	58 feet long,	3 spans	16 feet each.
		1 span	10 feet each.
8 bridges	48 feet long,	3 spans	16 feet each.
7 bridges	32 feet long,	2 spans	16 feet each.
13 bridges	16 feet long,	1 span	16 feet each.
4 bridges	10 feet long,	1 span	10 feet each.
6 bridges	8 feet long,	1 span	8 feet each.

Total, 44 bridges.

That there are 92 culverts, as follows:

20 culverts	1x1,	box, of redwood.
19 culverts	1x2,	box, of redwood.
1 culvert	1x3,	box, of redwood.
37 culverts	2x2,	box, of redwood.
15 culverts	2x3,	box, of redwood.

Total, 92 culverts.

NOTE.—The above erasure appears thus in record.

No stone suitable for building purposes could be found within a distance of ten (10) miles of the railroad. The material used in the construction of the trestle bridges, culverts, and bridge abutments is the most durable the country can afford, being the black or coast redwood or red cedar (the same used for ties) well known on the Pacific coast, and universally sought after on account of its great durability and resistance to decay. We have, however, the assurances of the managers and directors that the culverts and bridge abutments will be rebuilt in stone when and as the same may become necessary, and suitable material can be found within a reasonable distance of the line of the road.

No wood or coal houses have been built and they do not seem to be necessary. The dryness of the atmosphere, there being but a very light rainfall in winter, with no rain in summer, and the extreme mildness of the climate, render the use of covering for fuel entirely unnecessary. If, however, fuel-houses shall hereafter be found requisite, the officers promise that they shall be built immediately.

That there are two (2) coal platforms, viz.:

	Ft.	In.	Ft.	In.
One at White Water, size	14	7	by 30	3
One at Indian Wells, size	14	7	by 30	3

That there are five water-tanks, each of 18,000 gallons, capacity, as follows, viz.:

One at San Gorgonio, supplied from a well by a windmill.

One at Jacinto, supplied by gravity from a spring 2.82-100 miles distant.

One at White Water, supplied by gravity from a spring 2.9-10 miles distant.

One at Seven Palms, supplied by gravity from a spring 1.8-10 miles distant.

One at Indian Wells, supplied from a well by a windmill.

That there are twelve (12) section-houses for the accommodation of employees, all of them being sided with planed lumber, painted, and covered with shingles, viz.:

Two at San Gorgonio: One, 15x28 feet, with wing 10x14 feet. One, 12x16 feet, with wing 8x10 feet.

Two at Jacinto: One 12x16 feet, with wing 8x10 feet. One, 12x16 feet.

Two at White River: One, 12x18 feet. One, 12x16 feet, with wing 8x10 feet.

Four at Seven Palms, two, 12x16 feet, each wing 8x10 feet. Two, 12x16 feet.

Two at a point 40 miles from the commencement of this 50 miles section: One, 12x18 feet. One, 12x16 feet, with wing 8x10 feet.

That the sidings and turntable tracks hereinbefore mentioned are situated as follows, viz:

At San Gorgonio, one siding, 1,175 feet, switch at each end.

At San Gorgonio, one turntable, 285 feet of track.

At Jacinto, one siding, 975 feet, switch at one end.

At White Water, one siding, 1,191 feet, switch at each end.

At Seven Palms, one siding, 1,131 feet, switch at each end.

At Seven Palms, one turntable, 285 feet of track.

At Indian Wells, one siding, 1,130 feet, switch at each end.

At Indian Wells, one turntable, 285 feet of track.

That at San Gorgonio there are two (2) handcar and storehouses, one 10x12 feet and one 12x16 feet.

That at Indian Wells there is one station building, consisting of a passenger and a freight house combined, 20 feet by 42 feet, sided with planed lumber, painted, and covered with shingles and having platforms 42 feet long by 10 feet wide on each side.

That no locomotive stalls or engine-houses, machine or repair shops have been built on this section, those at Los Angeles, heretofore, on April 15th, 1874, reported upon being amply sufficient to meet its present requirements. If others should become necessary, the officers inform us they will build when and as they shall be required.

The Southern Pacific Railroad Company owns the following locomotives and cars, which are used on this part of its railroad, viz:

Locomotives.

No.	Diam. of Wheels.	Size of cylinder and length of stroke.	Weight.	Name of Makers.
	Inches.	Inches.	Tons.	
1	56	17 x 24	32	Central Pacific R. R. Co., Sacramento, California.
2	62	14 x 22	26	McQueen, Schenectady, New York.
3	62	12 x 22	25	" " "
4	62	12 x 22	25	" " "
5	62	9 x 18	15	Vulcan Iron Works, San Francisco.
19	54	15 x 22	29	McQueen, Schenectady, New York.
21	60	16 x 24	32	" " "
22	60	16 x 24	32	" " "
32	60	16 x 24	32	" " "
25	60	16 x 24	32	" " "
29	60	16-x 24	32	" " "

Cars.

10 passenger cars.

3 passenger and baggage cars.

2 baggage and mail cars.

58 box cars.

137 platform cars.

31 hand cars.

10 push cars.

Total, 251 cars.

The foregoing locomotives and cars are more than sufficient for present business and requirements, and no more will be needed for some considerable time to come. The

road traverses a section of country thinly settled by a population that has hardly any commerce, and in consequence business must necessarily be, for a time, very limited and unprofitable. As the road advances it is hoped that immigration and settlement of the lands will be attracted, and the resources and commerce of the country developed, to such an extent that when eventually connection shall be made with the main line from the eastern States there will be enough of freight and travel to establish at least a paying business. The directors say that when and as the same shall become necessary, an ample supply of first-class rolling stock and other appurtenances will be provided.

That this section of railroad and telegraph line are both first class.

That said section of fifty (50) miles of railroad and the telegraph line connected therewith, or any part thereof, has not been constructed "on the line of any other railroad route to aid in the construction of which lands have heretofore (prior to July 27th, 1866) been granted by the United States."

That the telegraph line is constructed as follows: Not less than 30 redwood poles to the mile; size at bottom, 8x8 inches; at top, 4x5 inches; length, 24 feet; they are set to a depth of four feet in the ground. Number 9 galvanized wire is used. The office instruments are of the very best quality, and of the most improved style, and are furnished by the best manufacturers.

We respectfully recommend the acceptance by the

Government of the section of fifty (50) miles of railroad and telegraph line hereinbefore described.

Respectfully submitted,

LEWIS M. FOULKE,
CALVIN BROWN,
EUGENE L. SULLIVAN,
U. S. Railroad Commissioners.

State of California,
County of Los Angeles. } ss.

Lewis M. Foulke, Calvin Brown, and Eugene L. Sullivan, being duly sworn, severally, each for himself, says that he is United States railroad commissioner, and that the matters and things set forth in the foregoing statement by him subscribed are true and correct.

CALVIN BROWN.
LEWIS M. FOULKE.
EUGENE L. SULLIVAN.

Subscribed and sworn to before me, Ygnacio Sepulveda, Judge of the District Court of the 17th Judicial District, of the State of California, in and for the county of Los Angeles, this 22nd day of June, A. D. 1876, said court being a court of record.

YGNACIO SEPULVEDA,
District Judge of the Court aforesaid.

I hereby certify that Ygnacio Sepulveda is the acting Judge of said court; that I am well acquainted with his handwriting and the signature to the above and foregoing affidavit is his genuine signature.

Witness my hand and the seal of said court this 22nd day of June, A. D. 1876.

[Seal] A. W. POTTS,

County Clerk and Ex-officio Clerk of the District Court of said District.

Department of the Interior.

Washington, D. C., 10 July, 1876.

Sir: I have the honor to submit herewith for your examination, and if deemed proper for your approval, the report, under date of the 22d ultimo, of Messrs. L. M. Foulke, Calvin Brown, and Eugene L. Sullivan, commissioners appointed by you to examine the Southern Pacific Railroad and telegraph line of California. They have examined the 3d section of fifty miles of the branch road and telegraph line authorized by the 23d section of the act of 3d March, 1871 (known as the Texas Pacific Railway act), to be constructed by the Southern Pacific Railroad Company. This portion of road begins at the termination of section No. 2 of said railroad at a point in the S. W. ¼ of section 4, T. 3 S., R. 1 W., San Bernardino base and meridian, and running thence in a southeasterly direction fifty miles to a point in the S. W. ¼ of sect. 24, T. 5 S., R. 7 E., same base and meridian.

The commissioners report this section completed and equipped as a first-class railroad, and the telegraph as also completed and first class. I therefore respectfully recommend the acceptance of said 3d section of fifty miles of branch road, and the issuance to the company

constructing it of patents for lands due on account of such construction, agreeably to the provisions of law.

I am, sir,

Very respectfully,

Your ob't servant,

Z. CHANDLER,

Secretary.

The President.

[Endorsed]: Department of the Interior, 10th July, 1876. Z. Chandler, secretary, submits to the President report of Commissioners on 3d section, 50 miles, branch line of So. Pac. R. R. of Cal. Executive Mansion, July 21st, 1876. The within recommendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 31. Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 32.

M. C. P. (Vignette) A. M.

UNITED STATES OF AMERICA.

Department of the Interior,

Washington, D. C., Oct. 21, 1893.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the originals and of the endorsement thereon, on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal] WM. H. SIMS,
Acting Secretary of the Interior.

Def.

San Francisco, California, February 17th, 1877.

To Hon. Zachariah Chandler, Secretary of Interior of the United States of America.

Sir: We, the undersigned, commissioners of the United States, appointed to examine the fourth (4th) section of seventy-eight 59-100 (78 59-100) miles of the railroad and telegraph line of the Southern Pacific Railroad Company, authorized by the twenty-third (23rd) section of the act of Congress, entitled "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved March 3rd, 1871, commencing at or near San Fernando at the initial point of section number one (1) of said railroad heretofore reported upon, said point being in the northwest quarter (N. W. ¼) of section three (3), township two (2) north, range fifteen (15) west, San Bernardino base and meridian, and running thence northerly along the line of said railroad and ending at the termination of the 78 59-100 mile therefrom, in the northeast quarter (N. E. ¼) of section seventeen (17), township eleven (11) north, range twelve (12) west, San Bernardino base and meridian, certify: That we have carefully examined such section, and that the alignment and grades are as represented on the accompanying map and profile, and are

such as, in view of the capabilities of the ground, the Government should accept as first class.

That in this distance (78 59-100 miles) there are:

40,900	feet of level line.			
17,800	feet of grades	0 to	5	feet per mile.
20,300	feet of grades	5 to	10	feet per mile.
2,800	feet of grades	10 to	15	feet per mile.
16,586-8	feet of grades	15 to	20	feet per mile.
9,700	feet of grades	20 to	25	feet per mile.
15,675-9	feet of grades	25 to	30	feet per mile.
21,000	feet of grades	30 to	35	feet per mile.
14,975	feet of grades	35 to	40	feet per mile.
17,200	feet of grades	40 to	45	feet per mile.
17,637	feet of grades	45 to	50	feet per mile.
37,967-9	feet of grades	50 to	55	feet per mile.
24,816-3	feet of grades	55 to	60	feet per mile.
20,082-7	feet of grades	60 to	65	feet per mile.
12,400	feet of grades	65 to	70	feet per mile.
5,302-7	feet of grades	70 to	75	feet per mile.
24,300	feet of grades	75 to	80	feet per mile.
1,880-9	feet of grades	80 to	90	feet per mile.
6,300	feet of grades	85 to	90	feet per mile.
3,544-3	feet of grades	90 to	95	feet per mile.
8,485	feet of grades	95 to	100	feet per mile.
7,991-7	feet of grades	100 to	105	feet per mile.
23,961-0	feet of grades	105 to	110	feet per mile.
16,974-7	feet of grades	110 to	115	feet per mile.
26,351-8	feet of grades	115 to	116 16-100	ft per mile.

Total, 414,933-7 feet or 78.59-100 miles.

Maximum grade, 116 16.100 feet per mile.

That also in this distance (78.59-100 miles) there are:

317,063-3 feet of straight line.
32,543-1 feet of curve, 12′ to 1° inclusive.
13,339-5 feet of curve, 1° to 2° inclusive.
10,414-2 feet of curve, 2° to 3° inclusive.
8,921-8 feet of curve, 3° to 4° inclusive.
6,015-4 feet of curve, 4° to 5° inclusive.
11,123-3 feet of curve, 5° to 6° inclusive.
1,894-3 feet of curve, 6° to 7° inclusive.
7,637-4 feet of curve, 7° to 8° inclusive.
1,318-3 feet of curve, 9° 30′ inclusive.
4,663-1 feet of curve, 10°.

Total, 414,933-7 feet or 78 59-100 miles.
Minimum radius, 573.7 feet.

That this section of seventy-eight 59-100 (78.59-100) miles is laid entirely with steel rails. That all the steel is of American manufacture and of the best quality; and that the road is of the gauge of four feet, eight and one-half inches (4 ft. 8½ in.); that the rails weigh not less than fifty (50) pounds per lineal yard; that all the joints are made with fish plates, and all the rails are fastened with four spikes to each tie; that there are nine (9) sidings, having an aggregate length of 10,493 feet, each of them connected with the main track, at both ends, with good switches, and one siding, 1,669 feet long, connected with the main track at one end with a good switch; that there is one turntable track, 274 feet long, connected with the main track with a good switch; that there are 2,640 ties per mile (or a bearing surface equivalent to that number of ties) of redwood or red cedar timber, 6 by 8 inches by 8 feet long; that the said section is ballasted with a su-

perior quality of sand and gravel of which the road bed is composed, no better material being found within very many miles of the line of the railroad.

That the excavations and embankments are in strict conformity to the requirements of law and the instructions.

That there are fifty-six (56) bridges, all built on pile foundations, as follows:

1 bridge,	240 feet long,	15 spans,	16 feet each.
2 bridges,	128 feet long,	8 spans,	16 feet each.
2 bridges,	112 feet long,	7 spans,	16 feet each.
2 bridges,	96 feet long,	6 spans,	16 feet each.
6 bridges,	80 feet long,	5 spans,	16 feet each.
9 bridges,	64 feet long,	4 spans,	16 feet each.
2 bridges,	48 feet long,	3 spans,	16 feet each.
10 bridges,	32 feet long,	2 spans,	16 feet each.
22 bridges,	16 feet long,	1 span,	16 feet each.

Total, 56 bridges.

That there are one hundred and one (101) culverts, as follows:

20 culverts,	1 foot by 1	foot, box, of redwood.
1 culvert,	1 foot by 1½	feet, box, of redwood.
10 culverts,	1 foot by 2	feet, box, of redwood.
38 culverts,	2 feet by 2	feet, box, of redwood.
9 culverts,	2 feet by 3	feet, box, of redwood.
6 culverts,	3 feet by 4	feet, box, of redwood.
1 culvert,	4 feet by 5	feet, box, of redwood.
11 culverts,	4 feet,	open, of redwood.
2 culverts,	6 feet,	open, of redwood.
3 culverts,	8 feet,	open, of redwood.

Total, 101 culverts.

No stone suitable for building purposes could be found generally along the line of the road in places that were reasonably accessible. It would, in consequence of the rough and mountainous character of part of the country passed through, require a haul by wagon of at least ten miles to get a proper quality of stone to the points on the road where it could have been used, although in some instances a few ledges of rock might be found where the distances in a direct line would be much less.

The timber used in the construction of the bridges, culverts, and bridge abutments is the most durable the country can afford, being the black or coast redwood or red cedar (the same used for ties), well known on the Pacific coast and universally sought after on account of its great durabilty and resistance to decay. We have, however, the assurances of the managers and directors that the culverts and bridge abutments will be rebuilt in stone when and as the same may become necessary and suitable material can be found within a reasonable distance of the line of the road.

That in this section of seventy-eight 59-100 (78.59-100) miles there are three tunnels, having an aggregate length of 7,563.2-10 feet, viz:

Tunnel No. 18, situated 23 miles from the commencement of this section, 264-1 feet in length; all of which is on a 9° 30′ curve.

Tunnel No. 19, situated 22.6-10 miles from the commencement of this section, 332-6 feet in length; all of which is on a tangent.

Tunnel No. 20 (the San Fernando tunnel), situate five (5) miles from the commencement of this section, 6,966·5 feet in length; all of which is on a tangent.

These tunnels, being excavated through soft rock, required lining. They are well and substantially timbered throughout with best quality of coast redwood or Puget Sound cedar, the arch ribs which support the sheeting being in no case more than five feet apart from center to center, and being much nearer wherever the nature of the ground required it.

These tunnels, inside the timbering, have the following dimensions in the clear, viz:

Height from floor to soffit of arch,	20 ft. 10 in.
Height from floor to springing line of arch,	12 ft. 10 in.
Width at floor,	14 ft. 00 in.
Width at springing line of arch,	16 ft. 00 in.

That on the 9° 30′ curve the two latter dimensions are increased as follows, viz:

Width at floor,	15 ft. 00 in.
Width at springing line of arch,	17 ft. 00 in.

Suitable portals of timber, strongly framed, have been erected at the ends of each of the tunnels, and proper provisions have been made for full and perfect drainage.

No wood or coal houses have been built, and they do not seem to be necessary. The dryness of the atmosphere—there being but a light rainfall in winter, with no rain in summer—and the extreme mildness of the climate, render the use of covering for fuel entirely unnecessary. If, however, fuel houses shall hereafter be found requisite, the officers promise they shall be built immediately.

That there is one coal platform at Ravena, size, 19 feet by 139 feet.

That there are seven water-tanks, viz: One at Newhall, of 18,000 gallons capacity, supplied from a well by a windmill.

One at Lang, of 52,000 gallans capacity, supplied from Santa Clara creek through a pipe 4,450 feet long.

One at Ravena, of 52,000 gallons capacity, supplied by gravity from a spring distant about 3,000 feet.

One at Acton, of 5,200 gallons capacity, supplied from a well by a steam engine.

One at Alpine, of 52,000 gallons capacity, supplied by gravity from a spring 12,350 feet distant.

One at Lancaster, of 52,000 gallons capacity, supplied from a well by a steam pump.

One at Sand Creek, of 52,000 gallons capacity, supplied from a well by a windmill.

That there are section-houses for the accommodation of employees, as follows, viz:

One at San Fernando Tunnel, size 16 x 30 feet, with wing 12 x 16 feet.

Three at Newhall: One 16 x 30 feet, with wing 12 x 16 feet; one 14 x 22 feet; and one 12 x 24 feet.

Three at Lang: One 16 x 30 feet, with wing 12 x 16 feet. One 14 x 22 feet. One 12 x 14 feet.

Three two miles east of Ravena: One 16 x 30 feet, with wing 12 x 16 feet. One 18 x 20 feet. One 12 x 14 feet.

Three at Alpine: One 16 x 30 feet, with wing 12 x 16 feet. One 14 x 22 feet. One 12 x 14 feet.

Three at Lancaster: One 16 x 30 feet, with wing 12 x 16 feet. One 14 x 22 feet. One 12 x 14 feet.

Three at Sand Creek: One 16 x 30 feet, with wing 12 x 16 feet. One 14 x 22 feet. One 12 x 14 feet.

That all these houses are sided with rough lumber and covered with shingles, and all of them, except the one at San Fernando Tunnel, are painted.

That there are handcar and tool houses along the line of the road as follows, viz:

One at San Fernando Tunnel, 12 x 14 feet.

One at Newhall, 12 x 14 feet.

One at Lang, 12 x 14 feet.

One at Ravena, 14 x 20 feet.

One at Alpine, 12 x 14 feet.

One at Lancaster, 12 x 14 feet.

One at Sand Creek, 14 x 20 feet.

All these houses are sided with rough lumber and covered with shingles and all of them are painted, except the one at San Fernando tunnel.

That the sidings and turntable track hereinbefore mentioned are situated as follows, viz:

At San Fernando tunnel, 1 siding, 817 feet, switch at each end.

At San Fernando tunnel, 1 turntable, 274 feet of track.

At Andrews, 1 siding, 994½ feet, switch at each end.

At Newhall, 1 siding, 1,167 feet, switch at each end.

At Lang, 1 siding, 1,031½ feet, switch at each end.

At Ravena, 1 siding, 1,121 feet, switch at each end.

At Acton, 1 siding, 1,136 feet, switch at each end.

At Alpine, 1 siding, 1,536 feet, switch at each end.

At Alpine, 1 siding, 1,669 feet, switch at one end.

At Lancaster, 1 siding, 1,400 feet, switch at each end.

At Sand Creek, 1 siding, 1,290 feet, switch at each end.

That for the accommodation of passengers and freight business there are station-houses and freight buildings as follows, viz:

At San Fernando tunnel a passenger and freight house combined, 16 feet by 80 feet, made with rough lumber and covered with shingles, and having platforms 6 feet wide at the front and rear and one of 11 feet wide at one end of the building, and one of 23 feet wide at the other end of it.

At Andrews a freight-house, 18 feet by 30 feet, made with planed lumber, painted, and covered with shingles, and having platforms 10 feet wide at the front and rear and one of eight feet wide at one end of the building, and one of 22 feet wide at the other end of it.

At Newhall, a station building, consisting of a passenger and freight-house combined, 32 feet by 131 feet, made with planed lumber, painted, and covered with shingles, and having platforms 10 feet wide at each side.

At Ravena, a station building, consisting of a passenger and freight-house combined, 24 feet by 62 feet, made with planed lumber, painted, and covered with shingles, with platforms 10 feet wide on each side.

That there is at Ravena a sand-house, 12 feet by 20 feet, made with rough lumber, painted, and covered with shingles.

That there is at San Fernando tunnel an engine-house (of one stall), sided with planed lumber, painted, and covered with shingles. This, together with those at Mojave,

described below, and at Los Angeles, where the company has built an extensive engine-house, and with those at other points on the road, already reported upon, are amply sufficient to meet the present requirements of this section.

That no machine or repair shops have been built on this section. The company has erected at Los Angeles, on section number one of this line, heretofore reported upon, extensive machine and repair shops, which, with those at other points upon the road, also already reported upon, will be amply sufficient to meet all its requirements for some time to come.

Note.—At a point 1,500 feet north of the end of this section of 78.59-100 miles, to wit, at "Mojave Station," the company has constructed the following, intended for the use and operation of this section as well as for that of the section immediately north of it, viz:

One station building, consisting of a passenger and freight-house combined, 32 feet by 131 1-6 feet, made with rough lumber, painted, and covered with shingles. On three sides of the building there are platforms 10 feet wide. On the fourth side the platform is 50 feet long by 52 feet wide.

Three section-houses for accommodation of employees, viz:

One 16 x 30 feet, with wing 12 x 16 feet; one 14 x 22 feet, and one 12 x 14 feet.

Two handcar and tool-houses, each 12 x 14 feet.

One office, 20 x 40 feet.

One sand-house, 24 x 30 feet.

All these houses are sided with rough lumber, painted, and covered with shingles.

There are also at Mojave:

One engine-house of 15 stalls.

One coal platform, 28 x 422 feet.

Two water-tanks, each of 52,000 gallons capacity, supplied from a distant spring by gravity.

Five sidings, aggregate length 7,802 feet, switches at each end.

One spur track, 1,223 feet.

One turntable, with 1,014 feet of track.

The Southern Pacific Railroad Company owns the following locomotives and cars, which are used on the entire line of its railroad, which includes this section of seventy-eight 59-100 miles.

Locomotives.

No.	Name.	Diam. of Wheels.	Size of cylinder and length of stroke.	Weight.	Name of Makers.
		Inches.		Tons.	
1	Huntington....	54	11 x 15	16	Danforth, Cooke & Co.
2	San Francisco..	60	14 x 22	25	Norris.
3	Pacific.....	60	14 x 22	25	Norris.
4	Comanche.....	60	14 x 22	26	Danforth, Cooke & Co.
5	San Mateo.....	60	14 x 22	26	Danforth, Cooke & Co.
6	California.....	60	16 x 24	32	Booth & Co.
7	Atlantic.....	60	16 x 24	32	Booth & Co.
8	Union.....	48	14 x 18	18	Booth & Co.
9	James Donahue	66	17 x 22	32	Danforth, Cooke & Co.
10	H. M. Newhall.	54	18 x 24	34	Danforth, Cooke & Co.
11	Menlo Park....	66	15 x 24	30	William Mason.
12	Racer	60	15 x 24	31	McKay & Aldus.
13	Shoshone	60	16 x 22	31	Norris.
14	Red Eagle.....	60	15 x 22	29	Danforth, Cooke & Co.
15	Ranger.....	60	15 x 24	31	McKay & Aldus.

Locomotives—Continued.

No.	Name.	Diam. of Wheels.	Size of cylinder and length of stroke.	Weight.	Name of Makers.
		Inches.		Tons.	
16	Black Deer.....	60	16 x 22	31	McKay & Aldus.
17	Orinoco.....	60	14 x 24	28	Norris.
18	Peeler.....	54	15 x 22	29	McQueen, Schenectady.
19	.....	54	15 x 22	29	McQueen, Schenectady.
20	.....	60	16 x 24	34½	Baldwin.
21	.....	60	16 x 24	32	McQueen, Schenectady.
22	.....	60	16 x 24	32	McQueen, Schenectady.
23	.....	60	16 x 24	32	McQueen, Schenectady.
24	.....	60	16 x 24	32	McQueen, Schenectady.
25	.....	60	16 x 24	32	McQueen, Schenectady.
26	.....	60	17 x 24	32½.	McQueen, Schenectady.
27	.....	60	17 x 24	32½	McQueen, Schenectady.
28	.....	60	17 x 24	32½	McQueen, Schenectady.
29	.....	60	16 x 24	32	McQueen, Schenectady.
30	.....	56	17 x 24	32	Central Pacific R. R. Co., Sacramento.
31	.....	62	14 x 22	26	McQueen, Schenectady.
32	.....	62	12 x 22	25	McQueen, Schenectady.
33	.....	62	12 x 22	25	McQueen, Schenectady.
34	.....	62	9 x 18	15	Vulcan Iron Works, San F. Co.
35	.....	54	18 x 24	32½	McQueen, Schenectady.
36	.....	54	18 x 24	32½	McQueen, Schenectady.
37	.....	54	18 x 24	32½	McQueen, Schenectady.
38	.....	54	18 x 24	32½	McQueen, Schenectady.
39	.....	54	18 x 24	32½	McQueen, Schenectady.
40	.....	54	18 x 24	32½	McQueen, Schenectady.
41	.....	54	18 x 24	32½	McQueen, Schenectady.
42	.....	54	18 x 24	32½	McQueen, Schenectady.
43	.....	54	18 x 24	32½	McQueen, Schenectady.
44	.....	54	18 x 24	32½	McQueen, Schenectady.

Cars.

34 passenger cars.
1 parlor car.
4 passenger and baggage cars.
6 smoking cars.
20 emigrant cars.
8 baggage cars.
1 officers' car.
1 pay car.
1 hunting car.
4 caboose cars.
1 boarding car.
117 box cars.
440 combination cars.
24 stock cars.
328 flat cars.
12 dump cars.
9 stone cars.
54 hand cars.
48 push cars.
2 wood cars.

The above locomotives and cars are amply sufficient to accommodate present commerce and travel, as this section of seventy-eight 59-100 miles runs through a country almost unsettled and undeveloped, affording but little, if any, present additional business to the road. The directors say that when and as the same shall become necessary an ample supply of first-class rolling stock and other appurtenances will be provided. That this section of railroad and telegraph line was completed and equipped on the 5th day of September, 1876, and that both are first-class.

That said section of seventy-eight 59-100 miles of railroad and the telegraph line connected therewith, or any part thereof, has not been constructed "on the line of any other railroad route to aid in the construction of which lands have heretofore (prior to July 27, 1866) been granted by the United States."

That the telegraph line is constructed as follows: Not less than 30 redwood poles to the mile. Size at bottom, 8x8 inches; at top 4x5 inches; length, 24 feet. They are set to a depth of four feet in the ground. Number 9 galvanized wire is used. The office instruments are of the very best quality, of the most improved style, and are furnished by the best manufacturers.

We respectfully recommend the acceptance by the Government of the section of seventy-eight 59-100 (78.59-100) miles of railroad and telegraph line hereinbefore described.

LEWIS M. FOULKE,
CALVIN BROWN,
EUGENE L. SULLIVAN,
U. S. Railroad Commissioners.

State of California,
City and County of San Francisco. } ss.

Lewis M. Foulke, Calvin Brown, and Eugene L. Sullivan, being duly sworn, severally, each for himself, says that he is United States railroad commissioner, and that the matters and things set forth in the foregoing statement by him subscribed are true and correct.

LEWIS M. FOULKE.
CALVIN BROWN.
EUGENE L. SULLIVAN.

Subscribed and sworn to before me, Samuel H. Dwinelle, judge of the District Court of the Fifteenth Judicial District of the State of California, in and for the city and county of San Francisco, this 17th day of February, A. D. 1877, the same being a court of record.

As witness my hand and the seal of said court the date aforesaid.

SAML. H. DWINELLE,
District Judge of the Court Aforesaid.

I hereby certify that Samuel H. Dwinelle is the acting judge of said court, that I am well acquainted with his handwriting, and that the signature to the above and foregoing affidavit is his genuine signature.

Witness my hand and the seal of said court this 17th day of February, A. D. 1877.

[Seal] THO. H. REYNOLDS,
County Clerk of the City and County of San Francisco, California, and Ex-Officio Clerk of said District Court of the Fifteenth Judicial District.

Department of the Interior.

Office of the Secretary.

Washington, D. C., 1st March, 1877.

Sir: I have the honor to submit herewith for your consideration and if deemed proper for your approval, the report, under date of the 17th ultimo, of Messrs. L. M. Foulke, Calvin Brown, and Eugene L. Sullivan, commissioners appointed by you to examine the Southern Pacific

Railroad and Telegraph Line of California. They have examined the 4th section, 78.59 miles of the road, which said company are authorized by the 23d section of the act of 3d March, 1871 (16 Stat., 579), to build. Said section begins at a point in the N. W. ¼ of sect. 3, T. 2 N., R. 15 W., San Bernardino base and meridian, runs northerly, and ends at a point in the N. E. ¼, sect. 17, T. 11 N., R. 12 W., same base and meridian. They report said section as completed and equipped as a first-class railroad, and the telegraph line also as completed and first-class. I therefore respectfully recommend the acceptance of said 4th section, and the issuance to the company constructing it of patents for lands due on account of said construction, agreeably to the provisions of law.

I am, sir,

Very respectfully,

Your ob't servant,

CHARLES T. GORHAM,

Acting Secretary.

The President.

[Endorsed]: Department of the Interior, 1st March, 1877. Charles T. Gorham, acting secretary, submits to the President report of commissioners on 4th section (branch line), 78.59 miles, of So. Pac. R. R. of California. Executive Mansion, March 2d, 1877. The within recommendations are approved. U. S. Grant.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 32, Stephen Potter, Special Examiner. Filed Dec. 5, 1893. Wm. M. Van Dyke, Clerk.

Defendants' Exhibit Before the Special Examiner No. 33.

M. C. P. (Vignette) A. M.

UNITED STATES OF AMERICA.

Department of the Interior.

Washington, D. C., Oct. 2, 1893.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the originals and of the endorsement thereon, on file in this department.

In testimony whereof, I have hereunto subscribed my name and caused the seal of the department of the interior to be affixed, the day and year first above written.

[Seal] WM. H. SIMS,
Acting Secretary of the Interior.

Def.

San Francisco, California.
December 6th, 1877.

To Hon. Carl Schurz, Secretary of the Interior of the United States of America:

Sir: We, the undersigned commissioners of the United States, appointed to examine the fifth (5) section of one hundred and eighteen 37-100 (118 37-100) miles of the railroad and telegraph line of the Southern Pacific Railroad Company, authorized by the twenty-third (23) section of the act of Congress, entitled, "An act to incorporate the Texas Pacific Railroad Company and to aid in the construction of its road, and for other purposes," approved

March 3, 1871, commencing at the termination of section number three (3) of said railroad, at a point in the southwest quarter (S. W. ¼) of section twenty-four (24), in township five (5) south, of range seven (7) east, San Bernardino base and meridian, and running thence in a southeasterly direction along the line of said railroad, and ending at the termination of the one hundred and eighteenth 37-100 (118.37) miles from commencement at the southern boundary of the State of California, in the center of the Colorado river, at a point which would be, if the U. S. land surveys were extended into said river, in the southeast quarter (S. E. ¼) of section twenty-six (26), in township sixteen (16) south, of range twenty-two (22) east, San Bernardino base and meridian, certify that we have carefully examined such section, and that the alignment and grades are as represented on the accompanying maps and profile, and are such as, in view of the capabilities of the ground, the Government should accept as first class:

That in this distance (118.37) miles there are:

139,448.1 feet of level line.

96,500.0 feet of grades, 0 to 5 feet per mile.

112,800.0 feet of grades, 5 to 10 feet per mile.

115,100.0 feet of grades, 10 to 15 feet per mile.

58,700.0 feet of grades, 15 to 20 feet per mile.

33,100.0 feet of grades, 20 to 25 feet per mile.

22,700.0 feet of grades, 25 to 30 feet per mile.

7,437.2 feet of grades, 30 to 35 feet per mile.

7,000.0 feet of grades, 35 to 40 feet per mile.
7,300.0 feet of grades, 40 to 45 feet per mile.
3,086.6 feet of grades, 45 to 50 feet per mile.
21,797.3 feet of grades, 50 to 52.8-10 feet per mile.

Total, 624,696.2 feet, or one hundred and eighteen 37-100 miles.

That also in this distance (118.37 miles) there are:

572,077N feet of straight line.
9,802.5 feet of curve, 0° 20′.
29,442.9 feet of curve, 0° 30′.
2,562.2 feet of curve, 1° 30′.
4,274.9 feet of curve, 2°.
4,144.0 feet of curve, 2° 40′.
483.5 feet of curve, 3°.
1,444.8 feet of curve, 4°.
737.2 feet of curve, 9°.

Total, 624,969.2 feet, or one hundred and eighteen 37-100 miles.

Minimum radius, 637.27 feet.

That said section of one hundred and eighteen 37-100 (118.37) miles is laid with steel rails; that all the steel is of American manufacture and of the best quality; that the road is of the gauge of four feet eight and one-half inches (4 ft. 8½ in.); that the rails weigh not less than fifty (50) pounds per lineal yard; that all the joints are

made with fish plates and all the rails are fastened with four spikes to each tie; that there are nine sidings, having an aggregate length of 13,078 feet, each of them connected with the main track at both ends with good switches, and four (4) sidings, having an aggregate length of seven hundred and ten (710) feet, connected with the main track at one end with a good switch; that there are two (2) turntable tracks, having an aggregate length of eleven hundred and sixty-one (1,161) feet, each connected with the main track by means of a good switch; that there are 2,640 ties per mile (or a bearing surface equivalent to that number of ties) of redwood or red cedar timber 6 by 8 inches by 8 feet long; that the said section is ballasted with a superior quality of sand and gravel, of which the roadbed is composed, no better material being found within very many miles of the line of the railroad. When more suitable materials shall be found within a reasonable distance we have the assurance of the officers that the road will, if necessary, be reballasted.

That the excavations and the embankments are in strict conformity to the requirements of law and instructions.

That there is one (1) straining beam bridge across the Colorado river, 668 feet in length, consisting of six (6) fixed spans of 80 feet each, resting upon piled foundations, and of one (1) pivot drawbridge having two (2) spans of 93 feet 7 inches each. The pivot pier is constructed in the most substantial manner, and is founded on rock upon the southern bank of the river. Two hun-

dred and fifty-seven feet (257) *feet* of the north end of this bridge are included in this section of 118.37 miles.

That there are also 123 trestle bridges, all built on pile foundations, as follows:

1 bridge,	640 feet long,	40 spans,	16 feet each.
1 bridge,	272 feet long,	17 spans,	16 feet each.
1 bridge,	256 feet long,	16 spans,	16 feet each.
3 bridges,	208 feet long,	13 spans,	16 feet each.
2 bridges,	176 feet long,	11 spans,	16 feet each.
1 bridge,	160 feet long,	10 spans,	16 feet each.
1 bridge,	112 feet long,	7 spans,	16 feet each.
4 bridges,	96 feet long,	6 spans,	16 feet each.
10 bridges,	80 feet long,	5 spans,	16 feet each.
5 bridges,	64 feet long,	4 spans,	16 feet each.
9 bridges,	48 feet long,	3 spans,	16 feet each.
36 bridges,	32 feet long,	2 spans,	16 feet each.
48 bridges,	16 feet long,	1 span,	16 feet each.
1 bridge,	10 feet long,	1 span,	10 feet each.

Total, 123 trestle bridges.

There are 329 culverts, as follows:

ft.	ft.	
7 culverts,	1x1	box of red wood.
29 culverts,	1x2	box of red wood.
132 culverts,	2x2	box of red wood.
135 culverts,	2x3	box of redwood.
22 culverts,	3x3	box of red wood.
4 culverts,	3x4	box of red wood.

Total, 329 culverts.

No stone suitable for building purposes could be found within a distance of ten (10) miles of the railroad. The material used in the construction of the bridges, culverts, and bridge abutments is the most durable the country can afford, being the black or coast redwood or red cedar (the same used for ties), well known on the Pacific Coast, and universally sought after on account of its great durability and resistance to decay. We have, however, the assurances of the managers and directors that the culverts and bridge abutments will be rebuilt in stone when and as the same may become necessary, and suitable material can be found within a reasonable distance of the line of the road.

No wood or coal houses have been built, and they do not seem to be necessary. The dryness of the atmosphere, there being but a very little rainfall in winter, with no rain in summer, and the extreme mildness of the climate, render the use of covering for fuel entirely unnecessary. If, however, fuel houses shall hereafter be found requisite, the officers promise that they shall be built immediately.

That no coal platforms have yet been erected on this section of 118.37 miles (one 20x150 feet has been built at Yuma 2,800 feet south of the end of this section, the same to be used in the operation of this part of the railroad.)

That there are two watertanks, each of 52,000 gallon capacity, as follows, viz:

One at Walters, supplied from a well by a steam pump.

One at Colorado river, supplied from the river by steam pump.

That there are twenty-one (21) section houses for the accommodation of employees, as follows, viz:

Three at Walters: One 14x40 feet, with wings 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

Three at Dos Palmos: One 14x40 feet, with wing 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

Three at Volcano: One 14x40 feet, with wing 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

Three at 0.76 mile north of Flowing Well: One 14x40 feet, with wing 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

Three at Mammoth Tank: One 14x40 feet, with wing 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

Three at 2.58 miles south of Mesquite: One 14-40 feet, with wing 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

Three at 7.25 miles south of Cactus: One 14x40 feet, with wing 10x16 feet, sided with planed lumber. One 18x20 feet, of rough lumber. One 12x14 feet, of rough lumber.

All of the above-described section houses are painted and covered with shingles, and each of them is provided with a double roof, painted.

That there are seven (7) handcar and tool houses on this section along the line of the road, viz:

One at Walters, size 14x20 feet.

One at Dos Palmos, size 14x20 feet.

One at Volcano, size, 14x20 feet.

One 0.76 mile north of Flowing Well, size, 14x20 feet.

One at Mammoth Tank, size 14x20 feet.

One at a point 2.58 miles south of Mesquite, size 14x20 feet.

One at a point 7.25 miles south of Cactus, size 14x20 feet.

All of these houses are sided with rough lumber, painted, and covered with shingles.

That the sidings and turntable tracks, hereinbefore mentioned, are situated as follows, viz:

At Walters, one siding, 1,815 feet with good switch at each end.

At Dos Palmos one siding, 1,171 feet with good switch at each end.

At Frinks Spring, one siding, 1,291 feet with good switch at each end.

At Flowing Well, one siding, 1,652 feet with good switch at each end.

At Tortuga, one siding, 1,500 feet with good switch at each end.

At Mammoth Tank, one siding, 917 feet with good switch at each end.

At Mesquite, one siding, 2,619 feet with good switch at each end.

At Cactus, one siding, 900 feet with good switch at each end.

At Pilot Knob, one siding, 1,213 feet with good switch at each end.

At Dos Dalmos, one turntable and track 331 feet in length.

At Pilot Knob, one turntable and track 830 feet in length.

No passenger stations or freight buildings have been built on this section of 118.37 miles, and none are required for the railroad passes through the Colorado desert, which is uninhabitable and without commerce of any kind.

(Note.—At a point 2,800 feet south of the end of this section, to wit, at Yuma station, in Arizona territory, that there is in course of construction by the Southern Pacific Railroad Company one station building, consisting of a passenger and freight house combined, 32 feet by 100 feet, to be built of planed lumber, and to be painted and covered with shingles, and to have platforms on each side the whole length of the building, and ten feet wide.

Also that there at said station (Yuma) the following structures, which have been completed:

One freight house, for the accommodation of river freight, 32 feet by 90 feet.

One engine house of 7 stalls.

One said house 18 by 35 feet.

One water tank of 52,000 gallons capacity, supplied from the Colorado river by a steam pump.

One coal platform 20 feet by 150 feet.

That there are also at Yuma:

Five sidings having an aggregate length of 5,562 feet, connected with the main track by good switches at each end. One spur track 1,100 feet in length, connected to the main track with a good switch.

One turntable, with 750 feet of track, connected with main track by a good switch.

These buildings, water tank, platform, etc., are constructed for and intended to be used in the operation of this section of 118.37 miles as well as for that of the section of railroad immediately south of it in the territory of Arizona.

That no locomotive stalls or engine houses, machine or repair shops have been built on this section, the extensive ones at Los Angeles and at other points on the line heretofore reported upon and those above mentioned at Yuma, Arizona territory, being amply sufficient to meet its present requirements. If others shall become necessary, the officers inform us they will be built when and as they shall be required.

The Southern Pacific Railroad Company owns the following locomotives and cars, which are used on the entire line of its railroad, which includes this section of 118.37 miles.

Locomotives.

No.	Diam. of Wheels.	Size of cylinder and length of stroke.	Weight.	Names of Makers.
	Inches.	Inches.	Tons.	
1	54	11 x 15	16	Danforth, Cook & Co.
2	60	14 x 22	25	Norris.
3	60	14 x 22	25	Norris.
4	60	14 x 22	26	Danforth, Cook & Co.
5	60	14 x 22	26	Danforth, Cook & Co.
6	60	16 x 24	32	Booth & Co.
7	60	16 x 24	32	Booth & Co.
8	48	14 x 18	18	Booth & Co.
9	66	17 x 22	32	Danforth, Cook & Co.
10	54	18 x 24	34	Danforth, Cook & Co.
11	66	15 x 24	30	William Mason.
12	60	15 x 24	31	McKay & Aldus.
13	60	16 x 22	31	Norris.
14	60	15 x 22	29	Danforth, Cook & Co.
15	60	15 x 22	31	McKay & Aldus.
16	60	16 x 22	31	McKay & Aldus.
17	60	14 x 24	28	Norris.
18	54	15 x 22	29	McQueen, Schenectady.

Locomotives—Continued.

No.	Diam. of	Size of cylinder and length of stroke.	Weight.	Names of Makers.
	Inches	Inches.	Tons.	
19	54	15 x 22	29	McQueen, Schenectady.
20	60	16 x 24	34½	Baldwin.
21	60	16 x 24	32	McQueen, Schenectady.
22	60	16 x 24	32	McQueen, Schenectady.
23	60	16 x 24	32	McQueen, Schenectady.
24	60	16 x 24	32	McQueen, Schenectady.
25	60	16 x 24	32	McQueen, Schenectady.
26	60	17 x 24	32½	McQueen, Schenectady.
22	60	17 x 24	32½	McQueen, Schenectady.
28	60	17 x 24	32½	McQueen, Schenectady.
79	60	17 x 24	32	McQueen, Schenectady.
30	56	17 x 24	32	Central Pacific R. R. Co., Sacramento.
31	62	14 x 22	26	McQueen, Schenectady.
32	62	12 x 22	25	McQueen, Schenectady.
33	62	12 x 22	25	McQueen, Schenectady.
34	62	9 x 18	15	Vulcan Iron Works, San Francisco.
35	54	18 x 24	32½	McQueen, Schenectady.
36	54	18 x 24	32½	McQueen, Schenectady.
37	54	18 x 24	32½	McQueen, Schenectady.
38	54	18 x 24	32½	McQueen, Schenectady.
39	54	18 x 24	32½	McQueen, Schenectady.
40	54	18 x 24	32½	McQueen, Schenectady.
41	54	18 x 24	32½	McQueen, Schenectady.
42	54	18 x 24	32½	McQueen, Schenectady.
43	54	18 x 24	32½	McQueen, Schenectady.
44	54	18 x 24	32½	McQueen, Schenectady.

Cars.

35 passenger cars.
1 parlor car.
23 emigrant cars.
8 baggage cars.
1 officers' car.
1 pay car.
1 hunting car.
8 caboose cars.
1 boarding car.
117 box cars.
440 combination cars.
24 stock cars.
1 passenger and baggage car.
8 smoking cars.
328 flat cars.
12 dump cars.
8 stone cars.
116 hand cars.
62 push cars.
2 wood cars.
20 water cars.

Total, 1,217.

The above locomotives and cars are more than sufficient for present business and requirements, and no more will be needed for some considerable time to come. The road traverses a section of country thinly settled by a population that has hardly any commerce, and in consequence business must necessarily be for a time very limited and unprofitable. As the road advances it is hoped that immigration and settlement of the lands will be attracted and the resources and commerce of the country developed to such an extent that when, eventually, connection shall be made with the main line from the eastern States, there will be enough of freight and travel to establish at least a paying business. The directors say that when and as the same shall become necessary an ample supply of first-class rolling stock and other appurtenances will be provided.

That this section of railroad and telegraph line are both first-class.

That said section of one hundred and eighteen 37-100 (118 37-100) miles of railroad and the telegraph line connected therewith, or any part thereof, has not been constructed "on the line of any other railroad route to aid in the construction of which lands have heretofore (prior to July 27, 1866) been granted by the United States."

That the telegraph line is constructed as follows: Not less than 30 redwood poles to the mile; size at bottom, 8x8 inches; at top, 4x5 inches; length, 24 feet; they are set to a depth of four feet in the ground. No. 9 galvanized wire is used. The office instruments are of the very

best quality, of the most improved style, and are furnished by the best manufacturers.

We recommend the acceptance by the Government of the section of one hundred and eighteen 37-100 miles of railroad and telegraph line hereinbefore described.

Respectfully submitted,

EUGENE L. SULLIVAN,
ANDREW S. BENDER,
ZEBULOW B. STURGUS,
U. S. Railroad Commissioners.

State of California,
City and County of San Francisco. } ss.

Eugene L. Sullivan and Andrew S. Bender, being duly sworn, severally, each for himself, says that he is United States railroad commissioner, and that the matters and things set forth in the foregoing statement by him subscribed are true and correct.

EUGENE L. SULLIVAN.
ANDREW S. BENDER.

Subscribed and sworn to before me, E. D. Wheeler, Judge of the District Court of the Ninteenth Judicial District of the State of California, in and for the city and county of San Francisco, this sixth day of December, A. D. 1877, said court being a court of record.

E. D. WHEELER,
District Judge of Court Aforesaid.

I hereby certify that E. D. Wheeler is the acting judge of said court, that I am well acquainted with his handwriting, and that the signature to the above and foregoing affidavit is his genuine signature.

Witness my hand and the seal of said court this tenth day of December, A. D. 1877.

[Seal] THOMAS H. REYNOLDS,
County Clerk of the City and County of San Francisco, California, and Ex-Officio Clerk of Said District Court of the Nineteenth Judicial District.

District of Columbia,
City and County of Washington. } ss.

Zebulow B. Sturgus, being duly sworn, says that the matters and things set forth in the foregoing statement by him subscribed are true and correct.

ZEBULOW B. STURGUS.

Subscribed and sworn to before me, a notary public, this twenty-sixth day of December, A. D. 1877.

[Seal] M. P. CALLAN,
Notary Public.

Clerk's Office of the Supreme Court of the District of Columbia. }

District of Columbia.—ss.

I, R. J. Meigs, clerk of the said court, do hereby certify that M. P. Callan, Esq., whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument and thereon written, was, at the time of taking such proof or acknowledgment, a notary pub-

lic in and for the said District, dwelling therein, commissioned, sworn, and duly authorized to take the same. And further that I am well acquainted with the handwriting of said M. P. Callan, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine, and the said instrument is executed and acknowledged according to the laws of this District.

In testimony whereof, I have hereunto set my name and affixed the seal of said court this twenty-sixth day of December, A. D. 1877.

[Seal]

R. J. MEIGS,
Clerk.
By R. J. Meigs, Jr.,
Assistant Clerk.

Department of the Interior.

Office of the Secretary,

Washington, D. C., 19th January, 1878.

Sir: I have the honor to submit herewith for your consideration the report, under date of the 6th ultimo, of Messrs. Eugene L. Sullivan, Andrew S. Bender, and Zebulow B. Sturgus, commissioners appointed by you to examine the Southern Pacific Railroad and Telegraph Line of California.

They have examined the 5th section of what is known as the branch line of said road, authorized by the 23d section of the act of 3d March, 1871, incorporating the

Texas Pacific Railroad Company (16 Stat., 579). Said section is 118 37-100 miles in length. It begins at a point in the S. W. ¼ of section 24, T. 5 S., R. 7 E., San Bernardino base and meridian; runs southeastward and ends in the center of the Colorado river at a point which, if the United States surveys were extended into said river, would be in the S. E. ¼ of sec. 26, T. 16 S., R. 22 E., same base and meridian.

The commissioners report said section as completed and equipped as a first-class railroad, and the telegraph line also as complete and first-class.

Said 23d section of the act of 1871 authorizes the Southern Pacific Railroad Company of California to construct its road "to the Texas Pacific Railroad at or near the Colorado river." The Texas Pacific Railroad not having been constructed at or near said river, the point of contact of said roads has not been ascertained, except as to the fact that it is within the Fort Yuma military reservation.

In view of your action last autumn in relation to said Southern Pacific Railroad's crossing said reservation, I have the honor to recommend that said section examined and reported on be accepted from the point of beginning to the point where the road intersects the western boundary of said reservation, which is represented on the map accompanying said report as a point in the S. E. ¼ of N. E. ¼, sec. 27, T. 16 S., R. 22 E., San Bernardino

base and meridian, and that patents for lands due on account of construction, according to provisions of law, issue to said Southern Pacific Railroad Company of California.

I am, sir,

Very respectfully,

Your obt. servant,

C. SCHURZ,

Secretary.

The President.

[Endorsed]: The secretary of the interior, 19th January, 1878, submits report of commissioners on the 5th section, 118.37 miles, of Southern Pacific Railroad, authorized by act of 3d March, 1871, and recommends that the road examined be accepted from the beginning of said section to the point where it crosses the western boundary of Fort Yuma military reservation, Cal. Executive Mansion, January 23, 1878. The recommendations of the secretary of the interior are hereby approved. The section of railroad is accepted between the points designated by him, and lands will be patented to the company accordingly. R. B. Hayes.

[Endorsed]: Defendants' Exhibit before the Special Examiner No. 33, Stephen Potter, Special Examiner. Filed December 5, 1893. Wm. M. Van Dyke, Clerk.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA
Complainant,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
No. 587.

Caption to Depositions.

Testimony of Charles E. Satterlee, taken before me, Everett J. Esselstyn, a notary public in and for the city and county of New York, in the State of New York, pursuant to the annexed notice herein dated August 27, 1895; and also testimony of Joseph H. Call, taken herein before me on September 12, 1895.

Attached hereto are the following papers:

1. Original notice for taking of testimony dated August 27, 1895.

2. Oath of Everett J. Esselstyn, notary public, verified September 10, 1895.

3. Testimony of Charles E. Satterlee, verified October 3, 1895.

4. Testimony of Joseph H. Call.

5. Copy of by-laws of Texas and Pacific Railway Company adopted at meeting of directors May 24, 1871, referred to in testimony of said Satterlee.

6. Copy of report of General Dodge, March 12, 1873.

And I do hereby certify that on Tuesday, September 10, 1895, at 10 A. M., there appeared before me at my office in the Mills Building, New York City, N. Y., on behalf of the said complainant herein, Joseph H. Call, Esq., of counsel, and on behalf of the said defendant, Southern Pacific Railroad Company, Maxwell Evarts, Esq., of counsel, and that upon the consent and request of said counsel the taking of testimony under the annexed notice was duly adjourned to Thursday, September 12, 1895, at 11 A. M., at the office of Winslow S. Pierce, Esq., 195 Broadway, New York City, at which place the following testimony herein was taken.

And I do hereby further certify that the said Charles E. Satterlee and Joseph H. Call, before the taking of their testimony herein, were first severally and duly sworn by me to testify the truth, the whole truth, and nothing but the truth in the above-entitled action; and that the taking of testimony herein was concluded on said twelfth day of September, 1895; and that the figures and words annotated in red ink on pages 4, 5, 8, 10, 13, 15, 18, 22, and 25 of the testimony of the said Charles E. Satterlee were made by me and are in my own handwriting, and are further explained by the foot-note corrections on page 25a of the testimony of said Satterlee.

October 3, 1895.

[Seal] EVERETT J. ESSELSTYN,
Notary Public New York County.

State of New York,
City and County of New York. } ss.

I, Henry D. Purroy, clerk of the city and county of New York, and also clerk of the Supreme Court for the said city and county, the same being a court of record, do hereby certify that Everett J. Esselstyn, before whom the annexed deposition was taken, was, at the time of taking the same, a notary public of New York, dwelling in said city and county, duly appointed and sworn, and authorized to administer oaths to be used in any court in said state, and for general purposes; that I am well acquainted with the handwriting of said notary, and that his signature thereto is genuine, as I verily believe.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court and county, the ninth day of October, 1895.

[Seal] HENRY D. PURROY,
Clerk.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA,
Complainant,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
No. 587.

Notice to Take Depositions.

The above-named complainant will take notice that the defendants will take the testimony of C. E. Satterlee, S. H. H. Clark, and others, each of whom reside in the city of New York, State of New York, more than one hundred miles from the place of trial of said cause, and more than one hundred miles from any place at which the Circuit Court of the United States for the Ninth Circuit, Southern District of California, is appointed to be held by law, for use in behalf of defendants. Said testimony will be taken by and before Everett J. Esselstyn, notary public of said city of New York, State of New York, or, in case of his illness or inability to attend to the same, then before some other notary public of said city and State, neither of said notaries being attorney, counsel, or in any way interested in the above cause, at

the office of said notary in the Mills Building, in the city of New York, State of New York, on Tuesday, September 10, 1895, at ten o'clock A. M., and continuing from day to day there or at such place in said city as said notary shall determine to adjourn to. This to be done pursuant to sections 863, 864, 865, of the Revised Statutes, and the equity rules.

Los Angeles, California, August 27, 1895.

JOSEPH D. REDDING,
Attorney for Defendants.

BICKNELL & TRASK,
Of Counsel and Attorney for S. P. R. R. Co.

To Joseph H. Call, Esq.,
Special U. S. Attorney.

Los Angeles, California, August 27, 1895, when and where I receive copy of above notice, subject to all objections.

JOSEPH H. CALL,
Special Asst. U. S. Attorney.

[Endorsed]: No. 587. Circuit Court of the United States, Ninth Circuit, Southern District of California. United States of America, Complainant, vs. Southern Pacific Railroad Company et al., Defendants. Notice to take depositions of C. E. Satterlee et al.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA, Complainant,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al., Defendants.
No. 587.

Oath of Everett J. Esselstyn.

State of New York,
Southern District of New York,
City and County of New York. } ss.

Everett J. Esselstyn, being duly sworn, says that he is a notary public in and for the city and county of New York, and the person mentioned in the annexed notice before whom testimony in the above-entitled action is required by said notice to be taken; that he is not of counsel or attorney to either of the said parties hereto, nor is he interested in any way in the event of the above cause. And deponent further says that he will truly and faithfully take the testimony, as required under said notice, and a full and true report make in accordance with the rules and practice of this court.

E. J. ESSELSTYN,

Sworn to before me this tenth day of September, 1895.

GEO. W. SIMERS, Jr.,
Comm. of Deeds, City and County of N. Y.

State of New York,
City and County of New York. } ss.

I, Henry D. Purroy, clerk of the city and county of New York, and also clerk of the Supreme Court for the said city and county, being a court of record, do hereby certify that Geo. W. Simers, Jr., before whom the annexed deposition was taken, was, at the time of taking the same, a commissioner of deeds of New York, dwelling in said city and county, duly appointed and sworn, and authorized to administer oaths to be used in any court in said State, and for general purposes; that I am well acquainted with the handwriting of said commissioner; and that his signature thereto is genuine, as I verily believe.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court and county the tenth day of October, 1895.

[Seal] HENRY D. PURROY,
Clerk.

Circuit Court of the United States, Ninth Circuit, Southern District of California.

UNITED STATES OF AMERICA,
Complainant,
vs.
SOUTHERN PACIFIC RAILROAD COMPANY et al.,
Defendants.
No. 587.

Stipulation as to Taking Depositions.

Appearances:

Joseph H. Call, Esq., for Complainant.

Lewis E. Payson, Esq., for Defendants.

It is stipulated hereby that the depositions this day to be taken may be first taken in shorthand, and then reduced to typewriting under the direction of Mr. Everett J. Esselstyn, notary public; after having thus been reduced to typewriting, to be examined, and, if necessary, corrected by the witness, and one copy of the same to be furnished to each of the counsel; then the deposition thus corrected to be sworn to by witness and attested by the notary. All formalities as to caption and certificate by the notary are hereby waived. The deposition when taken and completed to be by the notary addressed to the clerk of the United States Circuit Court, Los Angeles,

California, and the envelope endorsed with the title of the cause.

It is understood that any corrections of the deposition, unless an obvious clerical error, shall be made by a footnote.

Deposition of Charles E. Satterlee.

CHARLES E. SATTERLEE, called and sworn as a witness on behalf of defendants, testifies as follows:

Q. 1. State your name, age, residence, and occupation.

A. Charles E. Satterlee; age, 63 years; residence, Brooklyn, New York. I am secretary and treasurer of the Texas and Pacific Railway Company.

Q. 2. How long have you been secretary of the Texas & Pacific Railway Company? A. Since 1875.

Q. 3. Have you in your custody the records of the meetings of the board of directors, the stockholders, and the executive committee of that corporation?

A. Yes, sir.

Q. 4. In how many different volumes are those contained? A. Three.

Q. 5. Have you those now present? A. Yes, sir.

Q. 6. Will you kindly produce a record of the meetings of the board of directors of that company, commencing with its organization, and give me the dates of the different meetings of that board, from the date of the organization of the company down to and including October 16, 1871?

A. May 23, 1871, was the first meeting; May 24, 1871; and October 16, 1871.

Q. 7. Will you look at the record of the meeting of the stockholders of the Texas Pacific Railway Company, and in like manner give me the dates of the meetings of the stockholders from the date of the organization of the company in March, 1871, down to the first of October, 1871?

A. The first meeting was April 15, 1871; April 17, 1871; and May 23, 1871.

Q. 8. Will you kindly turn to the records of the meetings of the executive committee of this corporation, and give me the dates of the record of the meetings of that committee from the date of the organization of the company in March, 1871, down to and including September 8, 1871?

A. June 19, 1871, July 15, 1871, July 21, 1871, July 28, 1871, September 8, 1871. (1)

(It is stipulated that the testimony of this witness is objected to by the Government as incompetent, immaterial, and irrelevant, without the necessity of repeating the same with respect to each question.)

Q. 9. Will you cause to be made, Mr. Satterlee, a copy of these different records of these meetings, the dates of which you have given, and furnish such copy to the notary public to be attached to this deposition as a part of your deposition? A. Yes.

(Same objection.)

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(1) See footnote, page 25a

Cross-Examined by Mr. CALL.

X. Q. 10. Mr. Satterlee, what time did the Texas & Pacific Railway Company hold its annual meeting for the election of directors in 1871?

A. The first meeting was a meeting of the commissioners appointed by the Government.

X. Q. 11. The original incorporators named by the act of Congress served first? A. Yes.

X. Q. 12. Then when was the next election held?

A. (2) I think there was an adoption of by-laws following that. When the directors were elected, they adopted by-laws. Let me refer to those by-laws and find out what the date is; I can't recall.

X. Q. 13. Have you a copy of those by-laws?

A. Yes; they are a part of this record, I think it is embraced in those dates I have given.

X. Q. 14. You will furnish a copy of the by-laws, will you, as a part of your deposition? A. Oh, yes.

(It is understood that a copy of the by-laws of the company shall be furnished, which were in force in 1871.)

X. Q. 15. At what meeting of the board of directors in 1871, or 1872, were the officers of the company first chosen?

A. The charter officers, I presume you mean, of course?

X. Q. 16. I mean the president, secretary, treasurer, and chief engineer?

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(2) See footnote on page 25a.

A. That was the first meeting, May 23, 1871; not the chief engineer, but the president, vice-president, treasurer, and secretary—the charter officers.

X. Q. 17. Who were elected president, vice-president, secretary, and treasurer at that meeting?

A. Marshall O. Roberts was elected president, Henry G. Stebbins was elected vice-president, Edwards Pierrepont was elected treasurer, and E. B. Hart was elected secretary.

X. Q. 18. When was there a chief engineer elected?

A. I shall have to look over the records to find out that; the general procedure is that he is appointed, and then the appointment is confirmed. I do not see any record of the appointment, any more than here is a record of fixing his salary.

X. Q. 19. At what meeting was that?

A. That was the meeting of July 15, 1871.

X. Q. 20. At the meeting of the executive committee of July 15, 1871, the salary of the chief engineer was fixed at how much? A. $5,000.

X. Q. 21. And who was named in there as being the chief engineer? A. Gen. George P. Buell.

X. Q. 22. Was that action of the executive committee approved by the board of directors?

A. I do not see any approval of it. There are minutes here of October 21, 1872, of the board of directors, which says "the minutes of the executive committee from the twenty-first of May, to date"—it doesn't give the year—"were then read, when, upon motion, it was resolved that the action of the executive committee, as reported to this board, be and the same is hereby approved, ratified, and confirmed."

X. Q. 23. Now, I will ask you to give the date of that resolution and to read that part of it in full?

A. "At a stated meeting of the board of directors of the Texas and Pacific Railway Company, held at its office, 177 West street, October 21, 1872"—giving the names of the directors present—"minutes of the preceding meeting were read and approved. The minutes of the executive committee from the twenty-first of May to date were then read, when, on motion of Mr. J. S. Harris, it was resolved that the action of the executive committee, as reported to this board, be and the same is hereby approved, ratified, and confirmed."

X. Q. 24. Does that refer to the minutes you previously read of the executive committee, or to some report made outside of that?

A. It is impossible for me to answer that question. I was not secretary at the time, and therefore it is a record as it stands.

X. Q. 25. What record have you of the board of directors showing the receipt of reports of the officers of the company during 1871 or 1872?

A. No more than from time to time the president would submit a report as he thought best.

X. Q. 26. Were those reports at stated periods or at any time?

A. Oh, no, not at all; except the president's own report to the board and to the stockholders.

X. Q. 27. The annual report?

A. Annual and sometimes semiannual, whenever he thought necessary; (3) (it was an organization; the road was in course of organization,) and he submitted his report as he thought best.

X. Q. 28. Have you those reports in your control?

A. I have, sir, all printed reports that he submitted, and they were all printed, as far as I know.

X. Q. 29. Have you any record of the proceedings of the executive committee or board of directors of the Texas & Pacific Railway Company, subsequent to the date of October 16, 1872, in reference to the approval of any report, or in reference to the approval of any map concerning any route of the Texas & Pacific Railroad between Marshall, Texas, and the Pacific ocean, at the bay of San Diego, or covering any part of that line?

A. These are all the records that I have here, from the organization of the company—records of the proceedings of the directors, stockholders and executive committee, from its organization to the present time.

X. Q. 30. Are you familiar enough with those records to state whether there is any record of the proceedings of the board of directors, or of the executive committee, concerning those matters, contained in those records?

A. Yes.

X. Q. 31. I will thank you to turn to the record showing the action of the company through its executive committee or board of directors, upon the matter of that survey, or the filing of a map locating such a survey, or location any line of general route.

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(3) See footnote, page 25a.

A. You understand that while I am familiar to a certain extent, I cannot be familiar with every proceeding of every meeting for three or four years.

X. Q. 32. Take your time; you can turn to it more conveniently than anybody else, and you can take your time to do it.

(Objected to by defendants' counsel as improper cross-examination.)

A. I recall one particular one—April 4, 1873.

(By agreement, the direct examination of the witness is resumed.)

By Mr. PAYSON.—Q. 33. Mr. Satterlee, instead of your making a copy of all this record and attaching it as a part of your deposition, I will ask you first, after having made a careful examination of the record of the different meetings of the board of directors, of the executive committee, and of the stockholders, held on the dates which you have already given, to state whether in any of those records there is any reference to or action thereupon had by either the stockholders, the directors or the executive committee, with reference to any map of location of the line of the Texas and Pacific Railroad in the State of California, from the date of the organization of the company down to and including October 16, 1871?

(Same objection.)

A. I have examined the minutes referred to, and do not discover anything relating to a map of the line of that road.

Q. 34. Will you kindly cause to be made and furnished

to Mr. Esselstyn, the notary, a copy of the by-laws of the corporation adopted on May 24, 1871?

(Same objection.)

A. Yes.

Cross-Examination (Resumed).

By Mr. CALL.—X. Q. 35. You recently examined the records in reference to the filing of a map of route, didn't you, Mr. Satterlee—the minutes of the board of directors and of the executive committee?

A. Yes, sir; between those dates.

X. Q. 36. Did you examine those records with reference to any other dates in respect to such maps or surveys?

A. No; I didn't go over the whole book.

X. Q. 37. You examined them?

A. I simply confined myself to what I was requested to look at—between those particular dates.

X. Q. 38. Can you at this time refer to any action of the executive committee or board of directors with respect to the adoption of a line of route, or of a map of location, between the Pacific Ocean and Marshall, Texas?

A. The only minute that I discovered was the one that I called attention to, (4) April 4, 1873, relating to the adoption of that line in California.

X. Q. 39. Please turn to the meeting of July 15, 1871, of the executive committee—the minutes of the meeting of the executive committee of the Texas and Pacific Rail-

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(4) See footnote, page 25a.

road Company, and read what was done at that meeting with reference to the fixing of the salary of the chief engineer.

A. It was "Resolved that until further ordered by the executive committee, the salaries authorized to be paid by the president to Gen. George P. Buell, as chief engineer, to his assistant, and to the various clerks designated below, be and the same are hereby confirmed. George P. Buell, chief engineer, $5,000; Charles J. Quetil, assistant engineer, $2,500; W. P. Talboys, assistant secretary, $2,500; C. E. Satterlee, first-bookkeeper, $2,400; Philip White, copyist, $400; John Cunneen, porter, $600.

X. Q. 40. I will ask you to produce before the notary the report of the chief engineer and of the president, and if more than one, such reports as have been made during the years 1871 and 1872?

A. Of course, I have them; they are numerous.

X. Q. 41. I only wish one or two, or perhaps none of them.

A. Some are printed and some are written.

X. Q. 42. I will ask you to produce them, so that I can examine them? A. Produce them where?

X. Q. 43. Right here before the notary; I would like to look at them to see what they contain.

A. Of course, I have profiles, too, big bulky things, and it will take me a long time to look up everything. The original name of that corporation was Texas Pacific Railroad Company, and it was changed by act of Congress to Texas and Pacific Railway Company.

X. Q. 44. You say you have profiles of the lines of the surveys in California?

A. I imagine I have. That is a printed report, and here is another one printed. I think those embrace the details of the survey made. You must recollect that we had numerous parties in the field trying to select a definite route, and each engineer made his special report, and then they adopted a definite line.

Mr. CALL.—I offer in evidence on cross-examination the following resolution of the board of directors of the Texas and Pacific Railway Company, at the special meeting of April 4, 1873:

"On motion, the following resolution was adopted:

"Resolved, that the following act of Congress, amending the charter of this company, be and the same is hereby, accepted by this company: 'An act supplemental to an act entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road and for other purposes," ' approved March 3, 1871: Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, that the face value of all bonds hereafter issued by the Texas and Pacific Railroad Company under the provisions of act approved March 3, 1871, shall at the option of the company be (5) paid either in gold or other lawful money of the United States, bearing interest at like option of the company either in gold or other lawful money of the United States; and any mort-

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(5) See footnote, page 25a.

gage heretofore executed by said company securing bonds payable in any lawful money of the United States other than gold, and the bonds recited therein, and to secure which said mortgage was given, are hereby legalized, and said mortgage and (6) the bonds shall have the same effect as though they had been authorized by the act to which this is a supplement; provided that in all other respects the requirements of that law in regard to such mortgage and bonds have been fully complied with.' "

X. Q. 45. The Texas and Pacific Railroad Company did execute a mortgage to secure bonds covering the lands granted to the company by the act of Congress of March 18, 1871, I believe?

A. I believe they did; I believe this construction mortgage covered those lands; I cannot say positively, but I think so.

X. Q. 46. You can refer perhaps to your records to show that such a mortgage was given?

A. The company executed two mortgages, one on the lands, but the lands were in Texas. You see the State of Texas donated about fifteen mllions, as well as the United States Government, and the company executed a land mortgage and a construction mortgage. The construction mortgage covered all the lands; a copy of it is here in the records.

X. Q. 47. Covering all the lands?

A. The lands from the general Government.

X. Q. 48. Including those in California?

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(6) See footnote, page 25a.

A. All the lands expected to be gotten from the general Government.

X. Q. 49. Can you furnish a copy of that mortgage, and attach it to your deposition?

A. I don't know as I have got a printed copy of it; I may have possibly; if I have, I will.

X. Q. 50. When was that mortgage given?

A. The construction mortgage was made the first day of June, in the year 1872; the land mortgage was made the first day of July, 1872.

X. Q. 51. You are reading from your records?

A. These are the records of the board, in which the mortgages are spread out in detail; one follows the other, commencing with the land mortgage.

X. Q. 52. The land mortgage you refer to covered the congressional land grant in California, did it?

A. I say I am not certain until I read it; the construction mortgage is the one, I think, that covers it.

It is stipulated that at the meeting of the board of directors of the Texas & Pacific Railroad Company, held October 21, 1872, the said board of directors authorized the execution of a mortgage to secure bonds to the amount of $40,000 per mile of completed road, which said mortgage was subsequently executed; and at said meeting provided in reference thereto as follows: (7) "And that said mortgage securing these bonds was declared to be a first mortgage upon the said railway, its equipment and franchises, and upon 15,000,000 of acres of

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(7) See footnote, page 25a.

land donated by the Government of the United States of America." (8)

And further providing in reference to the form of said mortgage bonds as follows:

"This bond is one of a series of bonds, each of like tenor and date, issued to the extent of $40,000 per mile of completed road, all of which are equally secured by a first mortgage of even date herewith, duly executed and delivered by said company to J. Edgar Thompson and Samuel M. Felton, trustees, conveying to them the railways constructed and to be constructed of the said company from a point on the said railway line at the boundary between the States of Louisiana and Texas westward through Marshall, in the State of Texas, aforesaid, to San Diego, on the Pacific Ocean, in the State of California."

And further providing as follows:

"As an additional security for the payment of this bond, upward of fifteen million acres of land, donated and granted by the Government of the United States to aid in the construction of the railways of said company, which lands the trustees aforesaid are empowered by said conveyance to sell, and with the proceeds of sales to redeem the bonds from time to time."

Mr. CALL.—I offer in evidence, on cross-examination, the following resolution of the executive committee of the Texas and Pacific Railroad:

"At a meeting of the Executive Committee, held on Saturday, July 15, 1871: Present, the president, Marshall

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(8) See footnote, page 25a.

O. Roberts, H. G. Stebbins, vice-president, Thomas A. Scott, W. T. Walters, and Edwards Pierrepont," it was resolved, "That the president be authorized to have the surveys made immediately after receiving information that donations from any of the several counties are ratified"; and the following marginal note, "President authorized to have surveys made immediately after receiving information of donations."

I also offer the following:

"A communication from chief engineer, Gen. George P. Buell, on the subject of 3-6 gauge was accepted and placed on file."

Also the following resolution of the same date:

"On motion of Mr. Thomas A. Scott, it was resolved that the treasurer be authorized to pay vouchers duly certified by the president, for the office expenses and the expenses of the engineers' department."

X. Q. 53. You have produced before the notary, Mr. Satterlee, some of the reports of the chief engineer to the board of directors?

A. To the president of the company.

X. Q. 54. Have you produced all of such reports made during the years 1871 and 1872?

A. Oh, I can't say if I have produced them all; I have produced all that I know of—all that I can lay my hand on. I have not hunted up all my records; it is impossible; it would take me a month.

X. Q. 55. There may be, then, some other reports besides these that you have here? A. Possibly.

X. Q. 56. Well, isn't it very likely that that is so?

Mr. PAYSON.—I object to that; let the witness testify as to what he may know.

X. Q. 57. State what you know, to the best of your belief—whether you have produced all the reports made by the chief engineer during the years 1871 and 1872?

A. I couldn't answer that; I have not been asked for that. I can only produce what reports I have at hand and on file; I have made no exhaustive search.

X. Q. 58. Well, I will ask you to produce before the notary all the reports of the chief engineer, made to the president of the company, or to the board of directors of the company, during the years 1871 and 1872?

A. Well, in what time?

X. Q. 59. Take your reasonable time to examine your papers and records.

A. I will look and see what I have; that is all I can do.

X. Q. 60. Of course, I only wish to have produced those reports concerning the map covering that portion of the line in California or any portion of it, or in reference to a proposed location of that line, or a survey of the line in California east of San Diego?

A. In what time?

X. Q. 61. 1871 and 1872.

A. (9) There were no surveys in that time.

X. Q. 62. There was no survey?

A. (10) No, certainly not; I can answer that offhand.

X. Q. 63. There was no survey, you say?

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(9) (10) See footnote, page 25a.

A. (11) It is impossible; it was a wild country; the engineer corps had to be organized, and it took a long time; it was a country overrun by Indians—a wild country; it could not have been done in that short time. I do not think it is possible there was any survey. Of course, the general location is one thing and a definite location is another.

X. Q. 64. Then confine your examination to the location of the line, either general or otherwise.

A. The reports of the chief engineers to the president?

X. Q. 65. You have no other report from any engineer in reference to the filing of the map of general route, or the adopting of a line of general route, in California? I suppose you know that the president and other officers of the Texas and Pacific Railroad Company filed in the interior department a map of general route covering the line in California?

A. Yes, I am aware of that.

X. Q. 66. Well, what I want is to have you produce, if you will, the record showing the reports of the engineers, or some engineer, with reference to the filing of that map, if there is any such?

A. Why, that map must have been filed by the engineer himself.

X. Q. 67. Very likely.

A. He would make no report on which that was based. In other words, it just amounts to this: The company was organized—

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(11) See footnote, page 25a.

X. Q. 68. Well, proceed with what you were saying about the filing of that map in 1871.

Mr. PAYSON.—You are speaking of your own knowledge now?

The WITNESS.—Well, as far as my own knowledge goes; I am speaking now simply from hearsay, because my own knowledge is based on general conditions as I recollect them.

Mr. PAYSON.—And probabilities?

The WITNESS.—And probabilities.

Mr. PAYSON.—Well, I object to that.

The WITNESS.—As far as that is concerned, then, of course, I cannot speak from actual knowledge, because I was not an officer of the company at that time.

X. Q. 69. Did the president of the company make annual reports to the board of directors touching his action during any previous interval? A. Yes, sir.

X. Q. 70. Have you those reports here?

A. That, I believe, is the first one. (Producing report.)

X. Q. 71. This is dated May, 1872. Is there one prior to that? A. I think not.

X. Q. 72. Are these reports which you now produce the only reports of the president covering the years prior to 1874?

A. All that I know of that are printed; there may be some on the minute-books.

X. Q. 73. On what minute-books?

A. There may be something included in the minute-books in the nature of a report. Those are all I have of

the president, except what may possibly be in the records of the company or in the minute-books of the company rather.

X. Q. 74. When did you first become secretary of this Texas and Pacific Railroad? A. 1875.

X. Q. 75. Who was the chief attorney for the company at that time? A. I can't recollect.

X. Q. 76. Can you refer to your records and see who was the chief attorney at that time?

A. No, I do not think that appears.

X. Q. 77. Who had authority to appoint attorneys?

A. The president, subject to the approval of the board. The chief attorney in 1875? I question whether there was a chief attorney then. Governor John C. Brown became general solicitor of the company in 1876, I think.

X. Q. 78. How long did he continue?

A. Oh, he continued up to—I can't say; he became president of the company finally, but he had been acting in the capacity of counsel for it. Oh, I should say from 1876 perhaps to 1882 or 1883, somewheres along there; I can't say positively; that is a mere surmise. Previous to that time—previous to his appointment as general solicitor, I don't know as he was a regularly designated chief counsel. Edwards Pierrepont was made treasurer of the organization, and in the organization was the advising counsel of the company.

X. Q. 79. You will attach to your deposition, as a part of it, the by-laws adopted by the company in 1871, will you? A. Yes, sir.

Redirect.

(By Mr. PAYSON.)

R. D. Q. 80. In answer to a question of Mr. Call, you say the first line of route of the Texas and Pacific Railroad in California which appears to have been acted upon by either the board of directors or the executive committee is shown by the records of April 4, 1873. Will you read that record, and let it be inserted?

Mr. CALL.—I object to the question as incompetent, immaterial, and irrelevant, and upon the further ground that it contains an incorrect hypothesis.

A. The record is as follows: "The president submitted the report of Gen. Dodge, chief engineer, on the line from San Diego to Fort Yuma. On motion, it was resolved that the line by San Gorgonio Pass, known as No. 4, be, and the same is hereby, adopted as the route from San Diego, with such modifications as in the judgment of the president may be to the best interests of the company."

R. D. Q. 81. What date is that?

A. (12) April 4, 1873.

R. D. Q. 82. Is there any reference in any of these records of either the stockholders' meetings, or of the meetings of the board of directors, or of the meetings of the executive committee, that refers to any line of route in California prior to this, so far as you have been able to discover? A. Prior to 1873?

R. D. Q. 83. Yes.

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(12) See foot note, page 25a.

A. None that I have been able to discover.

R. D. Q. 84. Can you read now what route No. 4 is from this report of Gen. Dodge, so that it may appear of record?

(Same objections.)

A. I do not know whether it is the route or not. I cannot read it as route No. 4.

Mr. PAYSON.—I offer in evidence the report of Gen. G. M. Dodge, chief engineer, dated March 12, 1873.

(Objections reserved.)

The report is as follows:

(Said report is hereto annexed.)

Mr. PAYSON.—I also offer in evidence an extract from the report of Gen. Dodge, chief engineer, found in the printed report of May, 1874, and commencing on page 11 of such printed report, as to the route of the Texas and Pacific Railroad, which extract is as follows:

"Beginning at Fort Yuma, from there the line runs in a northwesterly direction, passing to the north of the sand hills and across the Salt Lake district of the Colorado desert of California, over which our line for 45 miles is below sea level, the lowest point being 290 feet below tide water. In crossing this, the line passes on the north margin of the Salt Lake of the Colorado desert; leaving the mud volcanoes about five miles to the south, and the Dos Palmos stage station about the same distance to the north, we reach the Cabazon valley, 113 miles from Ft. Yuma; thence on nearly the same course 50 miles, to the summit of San Gorgonio Pass, running 1¼ miles south of White Water stage station, and one mile

south of Devontine's ranch, reaching the summit 2½ miles south of Edgar's ranch. This pass is 2,621 feet above tide water, and its small elevation must be considered remarkable, as it lies between the San Bernardino and San Jacinto mountains, the highest peaks of the range. Leaving San Gorgonio Pass, our course is southwest, passing down one of the tributaries of the San Jacinto which is known as the Potrero (or Pocket) of the San Jacinto, to the San Jacinto Plains and Temecula Plains. These plains lie between the main range and the Santa Ana range, and down the Temecula Plains to the head of Temecula canyon, and down the canyon where the Temecula breaks through the Santa Ana range, 10 miles to the open valley, striking the coast near the (13) San Coronado ranges, about 40 miles north of San Diego; then south and down the coast on the western slope of the Soledad mountains, crossing the Soledad, San Luis Rey, San Dieguito, the ravine of La Jolla, skirting False bay; then to the shore of San Deigo bay, and along the shore of the bay to the depot grounds of the Texas Pacific Railway below the Pacific Steamship Company's wharf. Distance from the Pima villages on the Gila river, 444.4 miles."

(Objected to as incompetent and irrelevant.)

Footnote corrections to foregoing deposition made in accordance with stipulation on page 3, lines 3 and 4:

Page 4, Q. 8:

Add to answer, after "September 8, 1871," the words, "and September 11, 1871."

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(13) See footnote, page 25a.

Page 5, Q. 12:

Following "A," and before the words, "I think," insert, "The election of directors was held May 23, 1871."

Page 8, lines 1 and 2:

Strike out the words, "It was an organization; the road was in course of organization."

Page 10, X. Q. 38, last line:

After the words, "I called attention to," insert, "Directors' meeting of."

Page 13, line 4:

Strike out the word "paid."

Line 11, strike out the word "the."

Page 15:

Erase quotation marks at beginning of line 6, and at end of line 9.

Page 18:

In correction of answers to questions 61, 62, and 63, I find, upon examination of the reports submitted to Mr. Call during this witness' examination, that an engineering party was put in the field to survey from San Diego east in July, 1872, and that they had surveyed as far as the Colorado river by January 1, 1873, and reported to the chief engineer on February 3, 1873, the result of their work.

Page 22, R. D. Q. 81:

Answer should read, "Special meeting of directors of April 4, 1873."

Page 25:

Strike out "San Coronado ranges," and insert in place thereof, "Santa Marguerita ranches."

C. E. SATTERLEE,

The foregoing testimony of Charles E. Satterlee was subscribed by him and sworn to before me this 3d day of October, 1895.

E. J. ESSELSTYN,
Notary Public of New York Co.

Deposition of Joseph H. Call.

JOSEPH H. CALL, called and sworn as a witness on behalf of the defendants, testifies as follows:

By Mr. PAYSON.—Q. 1. What is your name, age, and place of residence?

A. Joseph H. Call; 37 years old; residing at Los Angeles, Cal.

Q. 2. What is your occupation?

A. Attorney at law.

Q. 3. And one of the counsel in this case for the Government? A. Yes, sir.

Q. 4. How long have you lived in California?

A. About eight years.

Q. 5. Will you look at the map on the table before you, and say, in a general way, whether in your judgment it is substantially an accurate map of the country from Yuma to San Gorgonio Pass and in and about Los Angeles, and thence south to the city of San Diego, as the map appears, irrespective of any markings upon it in colors?

(It is understood that the Government reserves objections to all the questions proposed to be asked this witness.)

Mr. PAYSON.—As to their substance?

Mr. CALL.—Yes.

A. I cannot say whether the map is an accurate map or not, but it appears to be like other maps that I have seen.

Q. 6. Well, in your judgment, it is not a substantially accurate map of the country?

A. It appears to be like other maps that I have seen, and quite likely it is a correct map.

Q. 7. In your judgment, in a general way?

A. Of course, I have no judgment in regard to it, only from the maps that I have seen—other maps.

Q. 8. Is that practically along the line of the Southern Pacific Railroad from Los Angeles to Yuma?

A. Yes.

Q. 9. You know the way by San Gorgonio, Dos Palmos and Indio and the great Salt Desert to Yuma City?

A. The Southern Pacific travels through those points, I believe, in the night. I never was through there in the daytime, to my recollection.

Q. 10. Have you heard read by me, as the document was offered in evidence, the extracts from the report of Gen. Dodge, chief engineer of the Texas & Pacific Railroad, as to a route from Yuma by the way of San Gorgonio Pass and the San Jacinto Pass? Did you hear that read? A. Yes.

Q. 11. Now, in a general way, I will ask you, as a Californian somewhat familiar with the country, whether in your judgment the blue pencil line marked from Yuma by way of San Gorgonio, thence southwesterly and southerly to San Diego, does not represent in a general way

the line indicated in the extract from the report of Gen. Dodge to which I have alluded?

A. To the best of my judgment, based upon what I know about the geography of the state in that part of the country, the blue line through a part of the distance seems to be along the general course referred to in the report mentioned. I think that the line referred to by Gen. Dodge goes as far north as you have indicated on this map with the blue line.

Q. 12. And you refer, when you say north, to the San Gorgonio Pass? A. San Gorgonio Pass.

Q. 13. And thence to San Diego about as indicated by the blue line? A. I should think likely.

Q. 14. What part of the blue line would you say did not conform in a general way to Gen. Dodge's line?

A. Well, I wouldn't say that any part of it did conform in a general way, but I refer to some of the points that I have known of, such as San Gorgonio Pass, the northernmost pass reached by your blue line, which appears to be correct. The other part of the line I do not know much about.

Q. 15. But as far as you do know, wouldn't you say in a general way that it was substantially correct?

A. Well, I would suppose that it was.

Mr. PAYSON.—I offer this map in evidence.

(The map referred to is marked "Exhibit A.")

The signing and the further attestation by Mr. Call of this deposition is hereby waived.

Conclusion of testimony.

EVERETT J. ESSELSTYN,
Notary Public N. Y. Co.

BY-LAWS.

Section 1.

The officers of the company to be elected by the board of directors, shall consist of a president, vice-president, treasurer, and secretary. The president shall ex-officio be a member of all standing committees.

Section II.

An executive committee shall be elected by the board of directors at its first meeting, consisting of six members besides the president, who shall continue in office until the annual stated meeting of the directors in May, 1872, and to said committee shall be confided all the powers of the board of directors to provide for the consolidation of connecting roads; the construction and equipment of the road; the finances, engineering and all other duties needful to be exercised for the protection and welfare of the company.

Section III.

The general office of the company shall be in the city of New York. Stated meetings of the board of directors shall be held at said office on the third Monday of October, May, and July, in each year, and special meetings shall be called whenever the president or a majority of the executive committee may direct, by notice of fifteen days, published in a daily paper of New York, Philadelphia and Washington. Nine directors shall constitute a quorum. In case of a vacancy in the board of directors from any cause, such vacancy may be filled by the board

at any stated meeting subsequent to the vacancy, and until the next annual meeting of the stockholders; and any vacancy in any standing committee may be filled by a director, selected by a majority of the committee in which the vacancy occurs, until the next subsequent stated meeting of the board of directors.

In case the office of president shall become vacant the vice-president shall act as president until the next stated meeting of the board of directors, and until a new president is elected; and a vacancy in any other office of this company not herein provided for may be filled by the appointment of the executive committee until the next stated meeting of the board of directors.

Section IV.

The annual meeting of the stockholders shall be held at the office of the company in the city of New York at 12 o'clock at noon on the third Monday of May in each year.

Section V.

The Treasurer.

The treasurer shall give bonds, with one or more sureties, in the sum of not less than fifty thousand dollars for the faithful performance of his duties; he shall keep a regular set of books, containing the accounts of the company, showing the disposition of all funds that may pass through his hands, and keep his accounts as treasurer in such banks as the executive committee may from time to time designate. He shall, as early as practicable in May of each year, present to the president a complete statement of his accounts for the year and at such

other times as the president and executive committee may direct.

He shall also attend to such other duties connected with the finances of the company as may be required by the president or board of directors. His books and the monthly trial balance shall at all times be open for the inspection of the president or any member of the board.

All checks shall be signed by the treasurer; and all bills before being paid by him shall be examined and approved by the auditor, whom the executive committee may appoint, whose approval shall be endorsed thereon.

The treasurer shall have authority to appoint, subject to the approval of the president, such bookkeepers and clerks as may be required in his department, for the faithful performance of whose duties the treasurer shall be responsible to the company.

All bonds, mortgages, and other securities of the company shall be in the custody of the treasurer.

The Secretary.

The secretary shall keep a regular record of the proceedings of the board, and attend to the meetings of all standing or special committees when required, and keep a record of their proceedings.

He shall cancel all old certificates at the time of transfer, and register all stock issued and sign the same.

He shall attend to the giving of all the requisite notices of all meetings of every kind, and attend to such other duties as the president and executive committee may require.